UNITED
NATIONS

CRC

Convention on the
Rights of the Child

Distr.
GENERAL

CRC/C/3/Add.56
3 September 1998

Original: ENGLISH

COMMITTEE ON THE RIGHTS OF THE CHILD

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Initial reports of States Parties due in 1992

Addendum

MALTA

[26 December 1997]

GE.98-17836 (E)

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Introduction

1. Malta is a republican State with a Constitution that is founded on a pluralist democracy, the rule of law and the protection of human rights.

2. As a member of the United Nations and the Council of Europe, Malta adheres to the principles enunciated in the Charter of the United Nations and the European Convention on Human Rights. Malta is also signatory to various other international instruments affecting the civil rights and obligations of all persons.

3. The child enjoys such rights and has such obligations as emanate from the fundamental rights and freedoms of the individual per se. This is in conformity with the reference to the child's "identity" in article 8 of the Convention on the Rights of the Child. The Malta Civil Code says as much in section 157 where it explicitly states that "a minor (child) is a person of either sex under the age of 18 years".

4. The social and familial dimension show that the basis of family relationships goes beyond contractual obligations into loyalty, tradition, family pressure and religion. Most couples do not simply move out of marriage because the voluntary union between them is strained or breaking. One view is that there is a huge difference in Malta, as opposed to the rest of Europe, where society is increasingly becoming one of strangers because of high mobility; in Malta, society is still characterized by networks forming a stable, homogeneous community. Another view, not necessarily at variance, is that family stability is related to Maltese fundamental values but not necessarily in the traditional way. Traditionally, religion animated values. Nowadays the emphasis is more on the human dimension.

5. It is a well-known fact that children in Malta are very much loved and cherished.* During infancy, childhood and adolescence (and sometimes even after minority) family life practically revolves around them. It has been observed that "children as a value take priority over other values". The majority of families with children have a child within the first three years of marriage and when either or both of the couple are in their early or mid-twenties, as the following table demonstrates:

Birth of first child during marriage										
Year of marriage	1st	2nd	3rd	4th	5th	6th	7th	8th	No child	No answer
Families (%)	11.6	33.4	17.4	8.4	2.7	2.1	1.3	3.6	8.6	10.9

* The information in this section draws heavily on Charles Tabone, Maltese Families in Transition - A Sociological Investigation, 1995.

6. Perhaps it is ingrained in the collective subconscious that human potential is the one real resource for national self-sustenance. Admittedly, the rate of birth is decreasing, with 1993 being the lowest for the period 1986-1993 (see sect. VI.A below). But the decrease in the fertility rate cannot be attributed to a decline in the values related to childbearing. The rate seems to be reaching a stationary point, hovering around the replacement level.

II. GENERAL MEASURES OF IMPLEMENTATION

7. The fundamental rights and freedoms of the individual entrenched in the 1964 Constitution of Malta pre-empt to some extent the need to harmonize domestic legislation with the Convention. Indeed, several articles of the Convention have in substance their opposite numbers in the Constitution of Malta, whilst others are reflected in other laws and subsidiary legislation or derive from international treaties adhered to by Malta and incorporated into its legal system.

8. An examination of the Convention as it compares with the Constitution reveals that the former's substantive articles, that is articles 1, 2, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 19, 21, 22, 32, 34, 35, 36, 37, 38, 39 and 40, are covered, specifically or generally, by sections 32 and 45, 33, 45, 36, 44, 43 and 44, 39, 41, 40, 42, 38, 36, 45, 43 and 45, 35, 36, 36, 36, 36, 34 and 36 and 39 respectively of the Constitution of Malta. The sections on fundamental rights and freedoms of the individual in the Maltese Constitution stem from, and are in harmony with, articles 2 to 14, article 1 of the First Protocol and articles 2 and 3 of the Fourth Protocol and other documents of the European Convention on Human Rights.

9. As to the right to own property, at law a child in Malta may, and does at times, own property. This is in line with article 37 of the Constitution on fundamental rights and freedoms and article 2 of the First Protocol of the European Convention on Human Rights. This right is not stated in the Convention on the Rights of the Child. There may be reasons and probably circumstances that make it undesirable or unnecessary to have this right enunciated formally, but otherwise it is of no prejudice to the "best interests" principle.

10. In chapter II on the "Declaration of Principles", the Constitution provides specifically with regard to children that:

(a) Primary education shall be compulsory and in State schools shall be free of charge (sect. 10);

(b) Capable and deserving students, even if without financial resources, are entitled to attain the highest grades of education. The State shall give effect to this principle by means of scholarships, of contributions to the families of students and other provisions on the basis of competitive examinations (sect. 11); and

(c) The State shall provide for safeguarding the labour of minors and ensure for them the right to equal pay for equal work (sect. 16).

11. With regard to other articles of the Convention regarding the child within his/her family, these are firmly rooted in time. Suffice it to say that the Maltese Civil Code owes its origin to the Code Napoléon of 1805 and was enacted on 11 February 1870. It was radically amended as late as 1993 by Act XXI, when a number of amendments to the provisions affecting the family were introduced. This, coupled with the traditional standing of the family, gives the child a good base for a promising future, provided the family can sustain the challenges of modern society, the pressures of affluence, real or imaginary, and alternatives to the family as the primary model. Results from recent studies that have been conducted express a positive trend: the general feeling is one of optimism given the resilience of traditional patterns in the face of possibly transitional modes of living.

12. The rights to marry and found a family are rightly considered to be indivisible both under article 12 of the European Convention on Human Rights, under the Maltese Civil Code (sect. 2: the law promotes the unity and stability of the family) and in local jurisprudence.

13. The Civil Code and other laws are at pains to enunciate the best interests of the child, namely its inherent and inalienable right to life and viable birth (abortion is illegal), identity and name, family relations, protection and care, parental responsibilities, and the rights and duties of parents regarding especially health and education. The law and the courts safeguard the same interests where the marriage breaks down and separation follows (divorce is not permissible). They protect and assist, in the words of the Preamble to the Convention, "the family as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children".

14. On a more generalized level and regarding particularly articles 23, 26, 27 and 31 of the Convention, the Constitution of Malta, in its chapter 2 on the "Declaration of Principles", makes it incumbent upon the State to provide compulsory primary and secondary education, free of charge, not only in its schools but also in all private (and Church) schools. Capable and deserving students, even if without financial resources, are entitled to attain the highest grades of education by means of scholarships and other financial assistance.

15. The State is also to provide for safeguarding the labour of minors (over 16 years but under 18 years) and guarantee them the right to equal pay for equal work.

16. Persons with a disability and persons incapable of work are entitled to education and vocational training. Those incapable of work or who lack the resources necessary for subsistence are entitled to maintenance and social assistance.

17. The requirements of other articles in the Convention, namely article 17 on the mass media, and article 33 on drugs, are amply catered for in the general body of laws and regulations, mainly the Broadcasting Ordinance (chap. 165) with respect to the former and the Medical and Kindred Professions Ordinance (chap. 81) and the Dangerous Drugs Ordinance (chap. 101) with respect to the latter.

18. On article 30 of the Convention relating to minorities only, and not to indigenousness, such small groups as exist in Malta - and there are several: Jewish, Greek, Indian, Arabic and others - integrate well with the mainstream population and do not pose any problems. Children attend national schools, both private and public, and, barring valid religious persuasions, there are no social barriers that preclude any person, be he native or foreigner, from mixing in society. The English language, being both a second and the best known foreign language on the island, is the medium of communication, followed by Italian and, to a much lesser extent, French and German.

19. With reference to article 38 on armed hostilities, such issues are regulated at international law to which Malta is signatory in terms of the relevant treaties. On the domestic front it is not permissible for persons under 18 to formally engage in combat with the armed forces.

20. As far as Malta is concerned, safeguards in the Convention fall within three types:

(a) Those for which no account need be given because they are already provided for in the supreme law of the land;

(b) Others that are, or may be, provided for in domestic law, being either corollaries of fundamental rights or required to be part of that law;

(c) Obligations deriving from international treaties which are invariably put into effect according to international law.

21. The protection of the rights of the child in recent years has been multifaceted and variously applied according to changing patterns. As far back as 1962 the need was felt to protect parentless or neglected children. Legal Notice (L.N.)13 of 1962 gave wide power to the Director of Welfare then to ensure that such children were well provided for either in institutional or alternative forms of care. L.N.13 also introduced the term "protected minor" as part of the regulations covering adoptions.

22. In 1980, the Children and Young Persons (Care Orders) Act was enacted. It enabled the Court and the Minister to issue Care Orders or Interim Care Orders to place the child under protection in case of danger or need. One of the aims of the law is to enable competent authorities to act speedily and to the best advantage of the child and to leave legal contestation, which might otherwise prejudice remedial action, to a later stage of the proceedings. Under section 8 of that law the Minister is vested with powers and duties with regard to the care and custody of children under his care as parents would in normal circumstances. 1/ The law also establishes a Children and Young Persons Advisory Board which shall include a mother, "to advise the Minister on the best methods of dealing with every child or young person committed or taken into his care in accordance with this Act, to exercise general supervision over such children or young persons and, in general, to promote their welfare".

23. Also in 1980 the Juvenile Court was set up for children and young persons under the age of 16 years. The need had always been felt not to put young offenders with adult, sometimes hardened criminals, but to enact special

provisions that would give better prospects for adjustment and the self-rehabilitation of the person at such a tender age. The Juvenile Court is in fact a special court, in the sense that it is presided over by a magistrate as chairman and two members qualified for dealing with children and young people. It is located at St. Venera, away from the courts of law in Valletta, and in premises which house the State's social work agency, the Centre for Social Work (CSW). Proceedings are strictly confidential. The identity of the accused is not disclosed and sanctions exclude imprisonment.

24. As a general rule, no child or young person, unless accompanied by a parent, relative or guardian, is permitted to be present in any court of criminal justice during the trial of any person. Where the child or young person is called to be a witness in a court of criminal justice and the matter is one that is contrary to decency or morality, the court may direct that the testimony be given behind closed doors.

25. Since the inauguration of the International Year of the Child in 1989, Malta has taken it upon itself to redraw the profile of services provided for children in an attempt to streamline them according to existing requirements.

26. The Department of Family Welfare (DFW) within the Ministry for Social Welfare (MSW) is responsible for welfare services relating to families and children. The DFW is made up of several Units, including Intake, Family Services, Adoption and Fostering, Probation Services, Support Services and Socio-legal. There is an Adoption and Fostering Panel which, though not regulated at law, as the necessary legislation is still in the making, vets and monitors applications for local and inter-country adoptions, for the best possible arrangement to be made for the placement of the child with a family. These, and other provisions not covered by current legislation, are envisaged to be incorporated in a "Children Act" which is being drafted by the Department for Children and Family Services.

27. The Convention on the Rights of the Child was ratified by Malta on 30 November 1990. Since that time the Government's policy on the child has best been illustrated in its White Paper, "A Caring Society in a Changing World", which makes projections for welfare strategy for the 1990s and beyond. In its item 7 - Ten Main Areas of Need - it lists Childhood and Youth and recommends that public service units be set up for the specialization of services already in place and the setting up of suitable delivery entities. Each of these units will give special attention to the prevention of problems, especially educational ones.

28. The White Paper refers also to NGOs within the general framework of service delivery. Of the some 3,500 volunteers giving assistance in this field, not a few dedicate their energies to children in residential care and institutions (about 300), children with special needs or disabilities, children subjects of abuse, children in inter-country adoptions and charitable work. Generally, the Government's support is in the form of a contractual agreement with NGOs based on well-defined project documents with funds for their implementation. The purpose is to give scope to self-help and decentralization of services in a bid to move from a welfare State to a welfare society. 2/

29. Given that a child is reared and brought up within a family, in order to ensure a better quality of life and family well-being, the policy of successive Governments has been to support the family financially and to supplement the income earned by either or both spouses. Poverty in terms of material needs is practically non-existent and the cost of living is relatively manageable. Family and children's benefits are indicated below in section VI.D.

30. The social security system tries to operate in a manner that promotes the interest of children or families, but analytic studies in this regard do not exist and a method as to how best to carry it out has yet to be formulated.

31. The authority responsible for coordinating policies relating to children and, as a result, for monitoring the implementation of the Convention is the Ministry for Social Welfare. Upon it falls the task of seeing that welfare, educational and financial measures legislated upon, are taken in hand by the administration and acted upon. This applies in equal measures to interdepartmental liaison in other matters concerning the judicial process, foreign affairs and the forces of law and order. "A Caring Society in a Changing World" proposes the setting up of a Social and Family Welfare Council to advise Government in the social welfare field, as well as a Central Social and Family Welfare Agency which would be responsible for the coordination of all units - private and voluntary - operating in the social sphere. The main tasks of the Agency would inevitably include those of watching over the implementation of policies and proposing policies for consolidation and improvement.

32. In December 1993 the then Ministry for Social Development made it known that the setting up of a Forum for the Family was being considered to take on the tasks defined for the Central Agency.

33. Ever since they were enacted, if not before, the basic concepts underlying children's rights were either respected and protected or on the way to becoming so more fully, with variations, given the complexity and sweep of their content and implications in domestic law and policy.

34. By happy coincidence the international community celebrated the International Year of the Family in 1994. The overlap between child and family is so real that it needs no elaborating to parents. With the promulgation by the Council of Europe of the European Convention on the Exercise of Children's Rights in January 1996, the grounds were laid for greater awareness and application of these rights. The regional conference held by the United Nations in Valletta in April 1993, in which countries from Europe and North America participated, in preparation for the International Year of the Family, emphasized, in what became known as the Valletta Declaration, that Governments recognize and promote the equal sharing of family functions and responsibilities.

35. Worthy of mention also are the conferences held by the Council of Europe in which Malta participated. The first was held in December 1994, in Madrid, on the evolution of the role of children in family life: participation and negotiation. The second conference was held in Helsinki in June 1995, on the

role of the father. Both conferences formed part of the Childhood Policies Project - New Approaches? which was brought to a conclusion in Leipzig in May 1996.

36. Also for the purposes of this section, the text of the Convention on the Rights of the Child has been translated and will be made public and distributed among child welfare agencies, schools and the general public in the near future.

37. Once the present report has been endorsed it will be publicized and circulated for whomever is concerned to know more about childhood policies and measures on the national level, in conformity with the wishes of the United Nations. These and other initiatives will, directly or indirectly, leave a mark on the shape things will take when it comes to discussing, talking, promoting or legislating on children's rights. One will also be drawing upon a wealth of expertise from the literature the Convention is and will keep generating. This is tangibly felt in Malta at this stage in the process of amending the Law of the Family, and the enactment of other laws on social services and child welfare. Undoubtedly these are some of the ways in which articles 42 and 44 of the Convention can be brought to public knowledge and scrutiny in the most effective manner.

38. Following the World Summit for Children held in New York in September 1990, and in line with the European Social Charter, the then Ministry for Social Development drew up a three-year plan for 1993-1995 to deal effectively with its obligations under the Convention and with the recommendations made by UNICEF after the World Summit.

39. Prominent among the ideas that could introduce greater scope for reform in the future include the establishment of a Court for Family Affairs where the rights (and duties) of children would be considered, especially in matrimonial and marital breakdown cases, in an environment that was discreet and personalized, preferably away from the main hub of legal activity in Valletta; and the proposed amendments to the Civil Code concerning adoptions in a manner that reflect the natural family, and the introduction of fostering on a sound legal base.

II. DEFINITION OF THE CHILD

40. Children in Malta reach majority at the age of 18 years (section 157 of the Civil Code). It has been so since the Civil Code was first enacted. But there are cases where a child is vested with adult responsibility at an earlier age, namely:

(a) On contracting marriage at the age of not earlier than 16 (and when parental authority ceases in his/her regard);

(b) A child may also exercise acts of trade on attaining the age of 16 following an application for "emancipation" to the competent court (Section 9 of the Commercial Code);

(c) A child has capacity to make a will and testament at age 14 but he/she can only make remuneratory dispositions (section 597 (1) of the Civil Code);

(d) A child under 9 years is not liable criminally (doli incapax) for any act of commission or omission; a child under 14 years is also exempt provided he/she acts without mischief but parents may be liable to prosecution. Between 9 and 14, if a child acts with mischievous discretion (doli capax) the court may either bind the parents over for a sum of money or place the child in care.

41. Once a child is over 14 but still under 18 years of age, punishment may be diminished by one or two degrees, and if he/she is under 16 the court may place him/her in care (sections 35, 36 and 37 of the Criminal Code).

42. For the purpose of competency of the Juvenile Court "child or young person" means a person who is under the age of 16 (sec. 2).

43. Civil capacity of contracting parties excludes minors and any contract entered into by a person who has not attained the use of reason or is under the age of 7 is null. Any obligation entered into by a child under the age of 14 is also null, but if he/she has attained the age of 9 the agreement shall be valid insofar as it relates to the obligations entered into by any other person in his/her favour. The provisions last mentioned also apply with regard to any person who has attained the age of 14 years but has not attained the age of 18 years if such person is subject to parental authority or is provided with a curator, saving always any other provision of law relating to marriage (sections 968, 969 and 970 of the Civil Code). There seems to be a hiatus between 7 and 9 years of age.

44. Education is compulsory up to the age of 16. Education at all levels is provided free of charge and a stipend system operates at the tertiary level for undergraduates and, in specific cases, at postgraduate levels as well.

45. On the giving of testimony in court the norm in criminal cases is that a witness is both competent and compellable to give evidence except the accused, who is competent but cannot be compelled to testify in his own cause. In both criminal and civil cases any person shall be admissible as a witness provided he/she is of sound mind, unless there are objections against his/her competency. In civil cases, whatever may be the age of a witness whom it is intended to produce, he/she is admissible as such, provided he/she understands that it is wrong to give false testimony (sections 563 and 564 of the Code of Organization and Civil Procedure and section 629 of the Criminal Code). In criminal cases, where it is doubted (on account of his/her age) whether the witness understands the obligation of the oath and when, despite an explanation, it is necessary that the witness be further instructed as to the consequences of false testimony, the court may adjourn the trial or discharge the jury. But otherwise no person shall be excluded from giving testimony because of age; it shall be sufficient that the court is satisfied that the witness, though not of age, understands that it is wrong to give false evidence (sections 629 and 630 of the Criminal Code).

46. Other legal minimum ages at which children are legally entitled to carry out acts include: 18 for legal or medical counselling, sexual consent (outside marriage), purchase of controlled substances and voluntary enlistment into the armed forces (conscription does not exist); 16 for part-time or full-time employment (hazardous employment as such does not apply), imprisonment and deprivation of liberty, purchasing of alcohol as well as tobacco. At 18 one may fix one's own residence (unless one had done it earlier on contracting marriage), bring an action to have one's (fore-)name changed, change one's nationality, make an act of recognition of one's child and withdraw moneys from a bank; at 16 a child may also be issued with a passport and deposit moneys in a bank; at 14 his or her consent is required for his/her adoption.

III. GENERAL PRINCIPLES

A. Non-discrimination (art. 2)

47. In substance article 2 of the Convention conforms with article 45 of the Malta Constitution, which in turn is based on article 14 of the European Convention of Human Rights and article 24 of the International Covenant on Civil and Political Rights.

48. Article 2, however, mentions "disability" not in its legal connotation but as a physical impairment or handicap which may occasion discrimination. In all fairness, this need not apply only to children. In practice all persons with a disability in Malta are given opportunities to life on an equal footing with others more fortunate. With regard to children, the Education Division runs special schools for them and, depending on the degree of their disability, they are encouraged to mix with normal children within a normal school environment. Though much remains to be done in this field, especially in terms of equipment, premises, personnel and expertise, it has not taken popular perception many years to change from one of taboo and stigma to a notion of acceptance and integration. There is now in Malta a National Commission for Persons with Disabilities. One of its main functions is to see that the passage from childhood to adulthood is made easy either by complete integration into working life or, for the less fortunate, by providing them with sheltered places of work known as Adult Training Centres, of which there are four in Malta and one in Gozo.

49. In terms of legislation each and every employee is enjoined to employ a number of persons with disabilities in proportion to the overall number of employees. (See also sect. VI.B below.)

50. One other aspect which may give rise to instances of child abuse is racial discrimination. This, especially in places where xenophobia tends to rear its ugly head from time to time, could make easy prey of persons with this "disability". In Malta there are a few racial minorities. Racial prejudice is, however, practically unknown. Members of national minorities that have flourished for very many years are naturalized Maltese like the small Indian and Orthodox Greek communities. One or two others are of recent origin. None are considered to be strangers or aliens. It is a very ancient

Maltese tradition dating from Biblical times that the Maltese are by their very nature excellent hosts. Malta was also the seat of the Hospitaller Order of the Knights of Saint John of Jerusalem from 1530 to 1798.

B. Best interests of the child (art. 3)

51. The Malta Civil Code and other acts in their sections dealing with children repeat this expression very frequently. A definition of the concept does not exist and need not be attempted as it might restrict its effectiveness. As a general rule, it is that which best suits the child in a given situation ceteris paribus. The concept lends itself to a variety of notions. In adoption procedures it relates to "welfare", "health" "wishes of the person" and "religious persuasion" of such person and of his parents (section 119 of the Civil Code) and "well-being" in relation to "protected minors" (section 3 of L.N. 13 of 1962). Sometimes it is used interchangeably with "welfare" (sections 47, 56, 57, 90, 119 and 149 of the Civil Code). At other times it is synonymous with "health and safety" (art. 3, para. 3) and "education". Section 19 of the Malta Civil Code describes maintenance with regard to children as including the expenses necessary for health and education.

52. Parents are bound to look after, maintain, instruct and educate their children, taking into account the abilities, natural inclinations and aspirations of the children (sections 3B and 7 of the Civil Code). Spouses are bound to work in or outside the home as the interest of the family requires (section 3 of the Civil Code).

53. More importantly, the concept has special significance when the interests of the children are prejudiced and the court has to intervene to protect them. Thus, in litigation for personal separation, care of the children (sect. 47), custody of the children (sects. 56, 60 and 61), visitation rights (sect. 57), and in ordinary affairs the exercise of parental responsibilities over illegitimate children by either parent or its exclusion from both parents (sect. 90), adoption proceedings (sect. 119) and, over and above all, the very person and property of the child (sect. 149), are invariably circumscribed by the requirements of "welfare" or "best interests" of the child.

C. The right to life, survival and development (art. 6)

54. Since 1842, when the first census was taken, population growth has been continuous. Demographic transition followed closely the European model and was a very quick process compared to that of other countries. It preceded the industrialization era but the rate of growth gathered pace with the expansion in industry and tourism during the 1960s. The level of birth and mortality rates, which generally compare with those of developed countries, tend to reflect the state of socio-economic development of the country.

55. Between 1945 and 1975 the birth rate declined from 31 to 18 and the mortality rate decreased from 25 to 10. In 1975 there was an average of 3.6 children to every family compared to an average of 4.8 in 1945.

For the period from 1980 to 1995 total births gradually fell every year, with 5,816 registered in 1980 to 5,003 in 1995. Provisional figures up to August 1996 show 3,278 births.

56. In 1993 the birth and mortality rates stood at 14.0 and 7.3 respectively, while the total period fertility rate was 2.1. The gross reproduction rate has been estimated at unity. Demographically considered, the fertility rate is stable just above replacement level.

57. The total population of Malta and Gozo rose between 1980 and 1995 from 318,028 to 372,130. The overall population density is one of the highest in the world and the highest in Europe with 1,178 inhabitants per square kilometre in 1996. 3/ The population is relatively young with the 0-14 age group numbering 81,691 or 21.7 per cent of total population. 4/

58. The position of Malta with respect to the inherent right to life is that this right is conceived the moment life itself is, and that there is to be no break at any stage between conception and the right to viable birth. This position was made amply clear by Malta both in New York, in April, 1994, during a preparatory meeting for the United Nations Conference on Population and Development held in Cairo in September 1994, as well as during that same conference. Malta was also against the inclusion of abortion on the agenda of the World Health Assembly held in Geneva in May 1994.

59. Protection of the unborn forms part of the State medical services at the general hospitals, health centres, as well as in private medical practice. Antenatal units also give special attention to pregnant drug and alcohol abusers and liaise with parastatal agencies and NGOs by way of follow-up, support and monitoring.

60. Health Vision 2000 5/ recommends the further development of the genetic services. It says (page 116) that: "Identification of individuals carrying the genes responsible for severe congenital disability and for adult or childhood onset conditions which may lead to premature death is becoming increasingly possible. This is an essential step in the prevention of a vast number of common and serious illnesses which cause severe morbidity and mortality among younger individuals. There is therefore the need to strengthen genetic services as an integral part of health care in particular counselling services".

61. Women in employment cannot be required to perform any work which could risk both their health and safety and those of the unborn child. They cannot be exposed to certain types of chemicals and other agents either. This is according to the Work Place (Protection of Maternity) Regulations (1996) (see also sect. VIII.C below).

62. Abortion is illegal in Malta under the Criminal Code of 1854. The relevant section is 241 which carries imprisonment for a term from 18 months to 3 years to whoever shall cause the miscarriage of any woman with child, whether with or without her consent. The same applies to a woman who procures her own miscarriage. The section was amended only once, in 1981, by Act XLIX, in order merely to delete "hard labour" from the reference to "imprisonment".

63. The incidence of abortions is not known. It is perceived to be low, due, not in the least, to the use of contraceptives. That women go abroad to terminate a pregnancy is an open secret. Known cases concern women who need to go to hospital when complications result from illegal procurements. Doctors who come to be privy to abortions, and on admission by the patient, report to the authorities, but this is rare. From 1990 to 1994 only six persons were arraigned in court on abortion charges. Given this background, it is difficult to obtain statistics showing the hard facts. A survey held by the Cana Movement (an NGO offering counselling and support to families) between 1971 and 1973 showed that some 58 women had had abortions, of which 18 took place overseas (England and Sicily) and 40 locally. According to one member of parliament there were 32 recorded cases in 1975 and 65 in 1976, which latter were procured in England. The number of procurements in England went down to 49 in 1977 and to 31 in 1981. According to the same source there were allegedly two agencies in Malta which arranged for overseas abortions and in 1988 they had sent more than 80 women to abort in England or Sicily. The agencies were not identified. But the figures turned up again in 1989 in a report by the Foundation Studies of the University of Malta. Fees ranged from LM 200 to LM 1,000. In 1994, 43 women living in Malta went to the United Kingdom for abortions. In 1995 the number was 40 for the United Kingdom and 16 and 2 for Italy and Sicily respectively. Figures for 1996 and 1997 are not yet available. The number of women living in Malta procuring abortions in England and Wales has been relatively stable since 1982. Figures from the Office for National Statistics (United Kingdom) show that an average of about 50 women who live in Malta, the majority of them between 21 and 34, travel to the United Kingdom every year for an abortion. On average 19 per cent are over 35 and 15 per cent under 20. The highest number of abortions on Maltese mothers in the United Kingdom was 53 in 1985. In 1982 the number was 36.

64. Grounds for procuring abortion may include the health of the woman because of the pregnancy, conception resulting from rape (again numbers are low; between 1986 and 1992 one male was arraigned for rape and acquitted), pregnancy at an early age or the possibility that the baby would be disabled physically or mentally. Poor economic conditions is another possible but not probable cause, given that the average family counts from two to three children and the standard of living is appreciably good. The Centre for Social Work (CSW) or Ċentru Ħidma Soċjali (ĊĦS), the Government's social work agency, reports seeing very few women who have had abortions. Usually, they seek advice, counsel and support owing to a desperate emotional condition and guilt feelings. Some are under majority age.

65. A circumstance that may affect children at law is birth within or outside wedlock. Apart from the fact that the latter might entail having the child put in care in an institution or put up for adoption or be considered a "protected minor" in terms of legal notice 13 of 1962, the distinction between legitimate and illegitimate birth lingers on in the Civil Code, though the Law Reform Committee has it in mind to weed it out in its second stage of reforming the Code. 6/ Some inroads at mitigating the rigour of the rule have been made. For instance "natural child" has been introduced alongside "illegitimate child" in section 92, subsections (5) and (4) respectively of the Civil Code. Genetic proof of filiation has at the same time been rendered more rigorous and yet liberal in that in an action for disavowal blood tests

may be admitted and the court shall be entitled to draw such inferences as may be justified by the refusal to submit to such tests (section 70 of the Civil Code). To date in the law of successions, adopted and illegitimate children do not succeed at par with legitimate children. No distinctions apply, however, in regard to maintenance and education, whether the child is legitimate or not. 7/

D. Respect for the views of the child (art. 12)

66. Understandably, article 12, though wide in scope, is hedged with reservations as to the degree of maturity, ability to form opinions and the thorny question of child representation. It is not only fundamental but natural that views and opinions be freely expressed by any person unless a reasonable prohibition in the interests of State or other persons restrains that right.

67. Within certain parameters this "participation element" in the Convention is self-oriented and affects third parties also where the child's interests are concerned. It does not, however, include certain other national interests like voting or parliamentary representation. Consequently, when it comes to considering the matter one has to take particular note of:

(a) The age of the child;

(b) The subject matter involved;

(c) The children themselves; and

(d) How it affects their life in families, schools, society, etc.

68. As to (a), it has been seen already that in civil and criminal matters there are certain things which allow a child to do certain acts. He/she may marry, draw up a will, contract an obligation, give consent for his/her adoption or carry on acts of trade at a certain age. Necessarily, his/her views here are vital and are respected and normally acted upon. In other cases the child is heard by whoever is competent to come to a decision affecting the child in order to be able to do so with fairness. The position here is that once a child is perceived as being able to indicate a view in whatever manner at any certain age, that opportunity is to be afforded. This is regular practice before the courts of civil jurisdiction (on family matters) in Malta. Failing these two options, the parents of the child or a curator or a curator ad litem is appointed by the judicial authorities to take up the interests of the child. These interests include cases of patrimonial rights and, in criminal cases, crimes against the peace and honour of families and against morals where prosecution depends upon the consent of the injured party.

69. As to (b), the practice is to hear the views of the child in matters regarding custody, visitation rights in personal separation suits or annulment of marriage cases, and placement in care or fostering, if the judicial authority considers that to do so would not disturb the emotional, psychological and educational condition of the child. In such circumstances there are no legal age limits other than those for emancipation (16 years) or

majority (18 years). Judges at the Court of Voluntary Jurisdiction are known to take pains and time to hear children express their views in an atmosphere that is as congenial to the child's age and sensitivity as is humanly possible so as to arrive at the best possible solutions to his/her best interests.

70. As to (c), this depends on whether the child can act independently or is otherwise free from a disability, mental or physical. In the latter circumstance, the child is always to be represented by his parents or by a tutor or by a curator if the child is interdicted or incapacitated in the last year of his minority (section 191 of the Civil Code). Be that as it may, the provisions relating to the tutorship of minors shall, insofar as applicable, apply to the curatorship of persons interdicted (section 523 of the Code of Organization and Civil Procedure).

71. At the expense of generalizing one may say that as the law now stands in civil matters, the right of the child to express his/her views, unless specifically indicated, is inferred. In practice the opportunity exists and lies within the discretion of the presiding judge. But the Law Reform Commission in Valletta would do well to take this principle within its brief especially in the light of the Convention and the European Convention on the Exercise of Children's Rights. The approach in the latter is to give more scope to mediation (art. 12) and to resolving disputes and avoiding conflicts or proceedings affecting children coming before a judicial authority. On the other hand, it would appear to be more advisable to retain the present discretionary powers of the courts rather than establish the right as nugatory in all cases. The present position in terms of article 12 of the Convention or article 3 of the European Convention is not prejudiced. The overriding consideration is that a child, considered by internal law as having sufficient understanding, in the case of proceedings before a judicial authority affecting him or her, shall be granted and shall be entitled to request the following rights:

(a) To receive information;

(b) To be consulted and to express his or her views;

(c) To be informed of the possible consequences of his or her wishes and the possible consequences of any decision. 8/

IV. CIVIL RIGHTS AND FREEDOMS

A. Name and nationality (art. 7) and preservation of identity (art. 8)

72. The Constitution of Malta speaks of citizenship instead of nationality. It provides that every person born in Malta and either of whose parents was born in Malta, shall, as from the appointed day, being 21 September 1964 when Malta achieved independence, be a citizen of Malta, and that every person born in Malta on or after the appointed day is a citizen of Malta at the date of birth. Some reservations apply, for instance in the case of citizenship of parents on or before 31 July 1989, or dual citizenship. In the latter case, for Maltese citizenship to be retained, a person has to renounce his other citizenship on reaching the age of 19 years.

73. Maltese law does not allow for any person not to have civil status deriving from the registration of one's Act of Birth. In conformity with article 7 of the Convention the Malta Civil Code provides for birth registration and other acts of civil status. At birth it requires that an act be drawn, in the form provided in one of the Schedules to the Code, containing the date of the act, hour, day, month, year and place of birth, sex of the child, name given to the child, name, surname and other particulars of its parents and grandparents. In the case of every child born it shall be the duty of the father, and in default of the father, of the physician, surgeon, midwife or any other person in attendance at the birth to give notice, within five days of the birth, to the officer charged with the duty of drawing up the act of birth.

74. Where a child is born of a married woman, the name of her husband shall be entered in the act as that of the father, notwithstanding any declaration to the contrary, saving any correction which may subsequently be made upon a judgement in regard to the filiation of the child.

75. In the case of an illegitimate child the name of the father is stated if the latter acknowledges himself to be the father of the child before the officer drawing up the act of birth. In the case of an illegitimate child, if the mother fails to give the necessary particulars about the child but reasonable grounds would exist for her to be deemed the mother, her name, together with such other particulars, shall be entered in the act of birth. Where the mother of an illegitimate child is dead or cannot be found, notice of the birth may at any time be given by any person able to give correct information or by any person having an interest or by the child or its lawful representative.

76. In the case of a stillborn child the fact of stillbirth shall be stated in the act. In the case of abortion an act of birth shall only be drawn up where the foetus shall have completely assumed the human form. With regard to a foundling (repertus), the place where the child is found, approximate age, sex, name given and the person or institution in charge of whom the child was placed, shall be stated in the Act, as well as any marks, clothing and objects (if any) found on the person of the child.

77. In terms of sections 262 and 263 of the Civil Code persons who refuse to give information concerning particulars or who make false declarations shall be liable to imprisonment for a term not exceeding three months.

78. The legitimation of an illegitimate child and the adoption of any person shall be entered in the register by means of a note in the margin and by means of a mark with the word "Adopted" in the register book of acts of birth.

79. By Act XXI of 1993 the differentiation in the acts of birth and in the acts of an adopted person was eliminated. This and other instances already noted are in line with Circular No. 35/80 (OPM 149/80) from the Office of the Prime Minister with reference to the setting up of an inter-ministerial working committee to make recommendations as to how to remove once and for all the few remaining instances where the law differentiates between legitimate and adopted/illegitimate children.

80. A child may bring an action against his parents and request that his birth certificate be corrected. In W. Ahar v. P. Micallef (21 February 1996) the boy, who was assisted by a curator, pleaded that his father was someone other than that shown on his birth certificate. The court noted that when an action relating to civil status was filed by the child there was no need for plaintiff (i.e. child) to prove that his parents were in the physical impossibility of cohabiting prior to his/her conception. As the child was contesting his/her legal status, all that the court had to establish was whether the child's status, as evidenced by his/her birth certificate, was in conformity with the established facts of the case.

81. The right to know one's parents is not restricted. Section 251 of the Civil Code provides that the register books, acts and documents relating to one's birth (as well as marriage and death) shall be open to inspection by every person and extracts therefrom, signed by the Director of the Public Registry where the register books on Civil Status are kept, shall be given upon the demand of any person. The only limitation regards the Adopted Persons Register. Given the very confidential nature of adoption procedures at Maltese law - section 482 of the Code of Organization and Civil Procedure - a child, until he comes of age, may not know who his natural parents are. Section 269, subsection 5, of the Civil Code, lays down that the Register shall not be open to public inspection, nor, except under the order of a court, shall the Director of the Public Registry give information contained in the Register to any person other than an adopted person who has attained the age of 18 years, to whom that information relates. In exceptional circumstances, however, the same information may be given to any public officer duly authorized for that purpose by the Minister responsible for justice.

82. Taking into account what has been said with regard to local adoptions and the manner of disclosing confidential information, there does not seem to be substantial divergence between article 9 of the Convention (and also articles 20 and 21) and domestic law in cases of intercountry adoptions. The same may be said with regard to the renunciation or establishment of domicile and/or nationality/citizenship. For the sake of the child's best interests authority to adopt would not be granted unless the court is satisfied that the child is to live within and be supported by a family. Matters of identity related to the foreign adoption proceedings could possibly be explored in the same manner as is prescribed for domestic adoptions in terms of section 269 of the Civil Code.

B. Freedom of expression (art. 13)

83. Inasmuch as this right is different from the right established in article 12 of the Convention, in that it pertains to all persons, the Constitution of Malta, in its article 41, declares that "Except with his own consent or by way of parental discipline, no person shall be hindered in the enjoyment of his freedom of expression, including freedom to hold opinions without interference, freedom to receive ideas and information without interference, freedom to communicate ideas and information without interference (whether the communication be to the public generally or to any person or class of persons) and freedom from interference with his correspondence."

84. Parental discipline falls within the ambit of parental authority or parental responsibilities of the Civil Code in that "A child shall be subject to the authority of his parents for all effects as by law established." This would include matters of legal capacity for children under 18 and partially for children between 16 and 18 years of age.

85. Recent Maltese family law amendments to the Civil Code would seem to tie in the provisions of article 13 with those of article 12 preceding. Article 131 (4) of the Code gives the right to the child who has reached the age of 14 years to be heard by the competent court on matters of particular importance over which the parents are in disagreement. The court shall then "make those suggestions which it deems best in the interests of the child and the unity of the family" and shall further "authorize the parent whom it considers more suitable to protect the interests of the child in the particular case, to decide upon the issue ...".

86. Limitations upon the child in the exercise of his rights to freedom of expression, as well as the right of the child to express a view, need not be seen as deriving from restrictions inherent on minority as much as a safeguard and protection mentioned in the Preamble to the Convention and taking into account the degree of development, mental and physical, during minority which renders one "capable (or incapable) of forming his or her own views" (art. 12).

C. Access to appropriate information (art. 17)

87. The Convention refers principally to the mass media as being instrumental in making accessible information and material from a diversity of national and international sources of social and cultural benefit to the child and his/her education.

88. Broadcasting in Malta is regulated by the Broadcasting Ordinance which empowers the Broadcasting Authority "to organize, provide and subsidize educational and cultural activities" and "to collect news and information from any part of the world" (sect. 6). These activities or services "shall be calculated to promote the public interest" (sect. 7).

89. Broadcasting fare is quite varied and caters for different age groups to educate, inform and entertain. Programmes for children are regular features - those meant precisely to educate and instruct span a wide spectrum of subjects including general knowledge and quiz programmes. These come within the domain of the Education Division Broadcasting Unit and Programme. They are normally broadcast during school hours on television and radio.

90. Something to be desired - and the Broadcasting Authority would do well to see to it - is that children and young people take a more active part in discussion programmes on matters touching their interests. This will involve them actively with the adult world besides developing modes and facility of expression and self-assertiveness.

91. As to reading facilities, the National Public Library has its own Juvenile Section. There are also a number of libraries for children at civic centres in the major towns and villages. Each school is also provided with its own library.

92. Primary and secondary schoolchildren have their own two periodicals, namely Saghtar (homonym for "thyme", the national plant) and Taghna t-Tfal (Children's Own). They include features and correspondence sent in by the children themselves.

93. Books meant for children in the Maltese language are on the increase both as textbooks and for general reading, especially classics, at times illustrated and in translation, ranging from fairy tales and local folklore to British and European classics and contemporary publications. Given that the English language serves either as a second or foreign language in Malta from a very early age children find no difficulty in reading the originals.

94. The Government sponsors an annual literary award for Maltese authors and playwrights. It could award a similar prize for children's literature in Maltese as well.

95. The linguistic needs of minority and indigenous children do not arise in Malta, given that the character of society is homogeneous.

96. The Convention, at least by implication, requires States to adhere to a code of ethics in the propagation of information in the press and in broadcasting directed particularly at children. Journalists and broadcasters in Malta are enjoined by the Press Club and its code of ethics, as well as the broadcasting and press laws, to abide by the rules of confidentiality, objectivity and fairness. The Broadcasting Authority is expected to set up committees to advise it and its broadcasting contractors on educational and religious matters, on standards of conduct in the advertising of goods or services and on such other matters as the Authority may determine (section 11 of Act XX of 1961). The Press Act (Act XL of 1974) expressly prohibits, directly or indirectly, in print or broadcast, injury to public morals or decency, the divulging of secret matters relating to a profession, the malicious publication of false news that might disturb public good order or public peace, the negligent publication of false news and defamatory libel against any person (sects. 7-11).

97. The impact of the media cannot be overlooked with impunity. The relationship between the media and society is not clear-cut in terms of cause and effect. What reflects what is a moot point, as is the relationship between public exposure and the commission of certain crimes like violence, substance abuse and sexual abuse. Hard as it may be to restrict certain material from general public circulation, measures are nonetheless taken to enlighten the public about what to choose for their daily fare of media consumption.

D. Freedom of thought, conscience and religion (art. 14)

98. "All persons in Malta shall have full freedom of conscience and enjoy the free exercise of their respective mode of religious worship". As has

already been observed, this protection of the freedom of conscience and religion is guaranteed by the Constitution in its article 40. It combines with article 41 to safeguard the freedom of thought and the freedom to hold opinions without interference. Article 40 further lays down that "No person shall be required to receive instruction in religion or to show knowledge or proficiency in religion if in the case of a person who has not attained the age of 16 years, objection to such requirement is made by the person who according to law has authority over him and, in any other case, if the person so required objects thereto."

99. The Education Act further provides, in section 3, that "it is the right of every citizen of the Republic of Malta to receive education and instruction without any distinction of age, sex, belief or economic means". Section 20 (4) of the same Act expressly lays down that "the parents of any minor will have the right to opt that the minor should not receive instruction in the Catholic religion".

100. On the specific issue of freedom to exercise one's religion, only one case of a breach of human rights is recorded in local jurisprudence, namely the Church Property Case of 1984 on The Devolution Act of 1983 which the Constitutional Court held to be in violation of article 40.

101. Cases relating to the exercise by children of this right have to date not come up before the local courts in their constitutional jurisdiction. The two constitutional cases of 1988 and 1989 about a police ban against a temporary exhibition near a school and a prohibition by the police of a demonstration by students were in breach of the right to freedom of expression and involved the same students.

102. This does not mean that children will not be protected by the courts where their interests conflict with those of their parents on grounds of religious persuasion. The Court of Voluntary Jurisdiction will not hesitate, and has been known to decree that medical operations be performed and blood transfusions given to children whose parents object on religious grounds. The same court is also bound to consider the religious background of a child before authorizing his or her adoption.

E. Freedom of association and of peaceful assembly (art. 15)

103. No person in Malta is barred from freely associating with others "and in particular to form or belong to associations ... for the protection of his interests" (art. 42, Constitution). Restrictions spring from provisions that are "reasonably justifiable in a democratic society". In the case of children this applies where the exercise of that right by the child is vested in the parents. In normal circumstances this right comes into play in matters of a public nature, like public organizations - political, industrial and cultural.

104. There are no organizations for children in Malta which are wholly run by children themselves. There are many, however, that are for children in a variety of groups for a variety of interests, where children congregate, play, learn or are attended to in case of need. Most of these associations do not have legal personality but carry on their work on a voluntary basis. The Government encourages the activity of these organizations and a bill is being

proposed in Parliament to give voluntary bodies legal recognition and national support. The quality of the work some of them do for children cannot be overestimated.

105. Given the legal provisions circumscribing this right, no cases have come up before the local courts alleging violation of children's rights in this respect.

F. Protection of privacy (art. 16)

106. As with the right to freedom of association, the right to privacy is paramount unless, with regard to the child, parental responsibilities may be legitimately held to restrict it. Otherwise, "no person shall be subjected to the search of his person or his property or the entry by others on his premises" (article 38 of the Constitution). The powers of the police to enter any premises are limited, with few exceptions, to an officer not below the rank of Inspector duly authorized in writing by his superior.

107. The privacy of the person is also safeguarded in civil matters by the Official Secrets Act which prohibits disclosing information received by government departments or other authorities with a public function. Both this Act and the Post Office Act strictly enjoin officers in the private and public sectors who receive correspondence or information of whatever kind to abide by the rules of confidentiality and secrecy on pain of stiff penalties.

108. The privacy of the child is especially preserved in two particular cases:

(a) In adoption proceedings, as has already been noted, where, until the child has reached 18 years of age, details of such confidential proceedings cannot be disclosed unless by authority of court;

(b) In criminal proceedings against the child in terms of the Juvenile Court Act where proceedings are kept from public view, nor are reports of the proceedings in the Juvenile Court or photos that could reveal the identity of the child allowed to be published.

109. Of the three reported cases of a violation of this right (and of the right to protection from inhuman treatment), one case indirectly involved a child, namely Antonio Pace v. The Housing Secretary (1989), where it was held that an old farmer and his wife and their disabled child could not be evicted from their home and farm.

G. The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment (art. 37 (a))

110. Article 36 of the Constitution speaks to the same effect as is contemplated under this section of the Convention. From 1976 to 1989 there were a mere six cases decided by the courts specifically on violations of this right and only one related indirectly to a minor as a member of a family. They refer mainly to eviction from premises, police arrest and dismissal from employment.

111. Regarding children, a parent may be deprived by the court of parental responsibilities and otherwise be made liable to any other punishment according to law, if the parent, exceeding the bounds of reasonable chastisement, ill-treats the child, or neglects or conducts himself/herself in such a manner as to neglect the education of the child (section 154 of the Civil Code).

112. The Criminal Code seeks by stiffer sanctions to curb crimes affecting the good order, peace and honour of families, and lists, among other crimes, the prostituting of under-age descendants by ascendants or of minors by his or her tutor; the abduction of any person, and with regard to children under 18 years of age, by fraud or seduction, from under the authority of their parents; and the inducing by whosoever of persons under age to practice prostitution or instigating their defilement. Defilement or prostitution of minors is aggravated if it is committed on a child who has not completed the age of 12 years, or with violence. (Sections 199 et seq. of the Criminal Code.) But obviously this is not torture.

113. For the period 1990 to 1994 the police arraigned an average of 15 persons accused of defiling minors. For the same period there were 36 cases of sexual abuse and 34 of physical abuse of children.

V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

114. The major legislative measures regarding the family environment and care of children, within the family or in an "alternative form of care" (Civil Code, sect. 134 (2)), are set down, as has already been noted, in the Civil Code under what is referred to as "parental authority". Most rules and regulations, like the 1962 rules on the placement of children (the "protected child" rules) and the 1966 rules on adoptions, the latter as updated by Legal Notice 15 of 1995, result from authority under this Code.

115. Judicial pronouncements on the law are varied but in most cases harmonize with local and European legal and judicial dicta on the principles of "the best interests of the child", "respect for the views of the child" and other relevant provisions of the Convention. Administrative action is in conformity with legal and judicial measures. Where divergences occur there is always the right to contest administrative discretion in court on the ultra vires doctrine.

A. Parental guidance (art. 5)

116. The Malta Civil Code in article 3 B obliges parents "to look after, maintain, instruct and educate" their children.

B. Parental responsibilities (art. 18, paras. 1-2)

117. Article 131 of the Civil Code says that "a child shall be subject to the authority of his parents for all effects" established at law. A child over 14 years of age has a right to a hearing in case of disagreement between the parents on matters of particular importance affecting him/her. The right to a hearing in this context relates to familial matters and echoes article 12, paragraph 1, of the Convention in that the child is assured of a

hearing once he/she is capable of forming his or her own views. Age 14 figures presumably because at Maltese law any obligation entered into by a child under that age is null (section 969 of the Civil Code).

118. The duty to care and provide for their children binds the parents "each in proportion to his or her means and of his or her ability to work" in or outside the home (section 3 of the Civil Code).

119. All children under 16 receive a Child's Allowance payable in the first instance to the mother, provided a means test has been satisfied. Children over 16 years of age who remain dependent on a household budget or follow university education receive a special Child Allowance.

120. Expectant working mothers are entitled to 13 weeks' maternity leave with pay: 8 weeks before and 5 weeks after the birth. They are also entitled to one year's unpaid leave after the birth. As of April 1996, either parent who is a government employee is entitled to parental leave for a three-year period which may be shared by the parents (but not concurrently) and on a one-time basis only. It is to be expected that this arrangement will be included in collective agreements for employees in the private sector. It is up to the couple themselves to decide who is to take the extra unpaid leave and for how long, according to their particular needs. The arrangement may be seen as giving parents the opportunity of helping each other in caring for their children. It also helps the father to be physically present in the home and the parents to arrange that presence as they see fit. How this will work in practice remains to be seen.

121. Part-time government employees, including mothers, are entitled to vacation leave proportionate to the number of working hours. There is also the possibility of negotiating provisions for introducing flexi-time. The Government is also considering the possibility of parents in its employ working less than 40 hours a week.

122. This is a natural consequence of the recognition and acceptance of equal rights for men and women. The Parliamentary Secretariat for Women's Rights, the National Commission for the Advancement of Women and the Department for Equal Status of Women have been instrumental in amending the law relating to family matters, in particular where the rights and duties of the spouses are concerned. One other important aspect which involves both the Department and the Commission is the integration of work and family life in the light of the ILO convention and the Council of Europe draft convention on this matter. To a certain extent the ground has already been prepared by a series of recent legislative amendments to smooth the way for the application of these measures.

123. Where financial and social support required by families with children is concerned, both the State and NGOs provide a wide range of services, from medical to educational and recreational. Parents can benefit from social security allowances and from welfare services which are directed either at them personally, especially in time of need or difficulties like sickness or unemployment, or in favour of their children where the latter have to cope with certain difficulties like disabilities or are slow learners at school.

Kindergarten care starts at age three, but there are day-care centres which take children below that age. These centres also provide respite for parents with disabled children.

C. Separation from parents (art. 9)

124. The Civil Code makes ample provisions in favour of the rights of the child with regard to custody and visiting rights in separation proceedings between the parents. Whilst proceedings are still under way at court, 9/ the presiding judge is bound to give directions concerning the custody of the children in a manner as shall best safeguard their interests (art. 47) - (see Micallef v. Micallef, Civil Court, 1 October 1981). At times this might entail one of the parents having to leave the matrimonial home pending the separation proceedings if the paramount interests of the children so require. Both parents have equal rights as of December 1993 for care and custody. The other party is to be consulted on all matters affecting the children, as the Second Hall had the occasion to pronounce in March 1996; where access is unlimited this is tantamount to granting joint custody.

125. The competence of the court extends over the merits of the case even if the parties are not Maltese citizens so long as the third party (i.e. the child) affected by the merits of the case is a Maltese citizen and was domiciled, resident or present in Malta. In R.C. v. Dr. J. Brincat noe (decided 31 January 1996), the mother had left Malta with her son. The father sued for the return of his son to Malta. The Court of Appeal held that domicile, residence or presence militated in favour of the third party because the law wanted to protect all Maltese citizens, wherever they are, even if they are not parties to the case, so long as their interests are involved and they are domiciled in Malta. The right to the care and custody of the child, apart from being a right, is also a duty incumbent on the parents, and the child has the right to demand it. Furthermore, the child's interests are to be the only relevant factor when determining the care and custody of the child.

126. On separation being pronounced, the court also decides to which of the parents the custody of the children is to be entrusted. The best interests of the children is the court's paramount consideration (see X v. Y, Civil Court, 17 July 1995, where the father was granted the care and custody of his child). If neither parent can be entrusted with custody, the court would place the children with third parties or in alternative forms of care.

127. The court is also empowered to give directions in the decree or judgement of separation relating to the custody of the children, even where no such directions are requested by the parents. The court is free to revoke or vary such directions at any time if the interests of the children so warrant, to such extent that it may also deprive a parent of his/her rights of parental responsibilities (sect. 56). The duty of the parent who is not entrusted with care and custody to maintain and educate his/her children remains unaffected.

128. The competence of the court extends to de facto separations. In Micallef v. Micallef (Court of Appeal, 23 October 1981) it was held that the care and custody of the child would be entrusted to the wife if the welfare of the child so required. At the time parental responsibility was not joint.

As the law now stands amended, as of 1 December 1993, either parent has an equal right to the care and custody of the children. X v. X cited above envisaged such a situation.

129. As to visiting rights, "it shall be in the discretion of the court, according to circumstances, to fix the time, place and manner in which the father and mother shall have access to the children" (art. 57). Visiting rights may be forfeited if the court deems them to be of detriment to the welfare of the children.

D. Family reunification (art. 10)

130. The Immigration Act (1970) excludes from its purview as prohibited immigrants all citizens of Malta and their dependants. A prohibited immigrant is one who is not granted a residence permit in Malta (sect. 5). According to the Constitution (art. 22), a person is a citizen of Malta if he/she and either of his/her parents were born in Malta or, if the person is born in another place, if his/her father is a citizen of Malta. For the purposes of the Immigration Act, a dependant of a citizen of Malta includes a child or stepchild or adopted child under the age of 21 years (sects. 2 and 4).

131. The right of a citizen of Malta or of any of his/her dependants to residence in Malta does not preclude such person from entering Malta by reason (applicable to other persons) of his not being provided with suitable accommodation in Malta (sect. 35). Any citizen has the right, protected by the Constitution, to leave or enter Malta (art. 44), subject to lawful restrictions that are reasonably justifiable in a democratic society.

132. In general there are less grounds for not granting a child authority to leave Malta than there are for adults. One is where a parent in a personal separation suit declines to give his/her approval. In rare instances, a child may be precluded from reuniting with a parent abroad when a court considers that such reunion will not be in the child's best interests. Very recent cases do uphold this view even where one parent's allegation that the other parent had abducted the child seemed to be founded; the passage of time between the "abduction" and the court's judgement, however, militated in favour of the child's remaining in Malta as being in its best interests.

E. Recovery of maintenance for the child (art. 27, para. 4)

133. Maintenance for the child may be recovered within and outside the jurisdiction of Maltese courts. At domestic law, the Code of Organization and Civil Procedure empowers the court, either in the judgement or in a subsequent decree, on the application to that effect by the creditor suing for maintenance where such creditor is, among other persons, a minor or an incapacitated child, to order that a specified portion of the salary, allowance or bequest be paid directly to the creditor (sect. 381).

134. While the action for separation is pending, where plaintiff applies for maintenance for himself/herself and for his/her children, the decree of the court ordering the maintenance allowance shall be an executive title to be included amongst the judgements and decrees of the courts of justice of Malta

and shall be enforceable after 24 hours from its delivery by means of executive acts, including an excessive garnishee order (sects. 253, 273 and 480).

135. Recovery of maintenance for children from a source overseas is regulated by the Maintenance Orders (Facilities for Enforcement) Ordinance (1921) and Maintenance Orders (Reciprocal Enforcement) Act (1974). The former is of very limited effect, being applicable nowadays only to Bermuda. Formerly, that is prior to the coming into effect of the 1974 Act, enforcement of a maintenance order could be made by dependants of such person or persons who, according to the law in force in England or Northern Ireland or in any other part of the Dominions of Great Britain, was liable to maintain. The 1974 Maintenance Orders Act more or less reproduces the effects at law of the 1921 law. It speaks of creditor (being the person entitled to the payments for which a maintenance order provides) and debtor (being the person liable to make payments under a maintenance order).

136. "Maintenance Order" means an order which provides for the periodical payment of money towards the maintenance of any person whom the debtor liable to make payments under the order is bound to maintain according to the law of the place where the order was made. In relation to a child, the Act lays down that the payment of money for a child's maintenance shall be construed as including a reference to the payment of money for his/her education. Where the debtor resides in a reciprocating country, the creditor may apply for the maintenance order to be sent to that country for enforcement. Similarly, a registered order may be enforced in Malta as if it had been made by the registering court and as if that court had had jurisdiction to make it. Proceedings for the enforcement of any such order may be taken accordingly.

F. Children deprived of a family environment (art. 20)

137. Alternative care for children deprived permanently or temporarily of their family environment is provided by voluntary organizations, mostly religious, with financial assistance coming partly from the State and from the Church. Up to July 1995, there were 236 children in 13 residential homes. The average is of about 300 each year.

138. Deprivation is more temporary than permanent, the number of orphaned children being relatively low. Most children come from families with difficulties, single parents or single mothers. Very few come from single mothers under the age of majority. Karin Grech Maternity Hospital has the following figures for single mothers under age:

	1994	1995	1996 (1.1.96-7.9.96)
Under 15 years	4	3	2
Over 15 years	4	7	9
Over 16 years	12	16	14
Over 17 years	9	15	12

Source: Health Division Information.

139. The number of illegitimate births has risen sharply over the last 15 years, from just 59 in 1980 to 213 in 1995. In 1996 the number of such births is expected to match the previous year's record. Besides, the number of mothers of younger age is increasing. The highest number of illegitimate births by mother's age is recorded in the under-20 age group and this includes very young mothers, less than 15 years old. Two 14-year-olds gave birth during the first eight months of 1996. The second most common age group for single mothers is between 20 and 24. There has been only one single mother over 45 in the last 15 years. The most common age group for fathers in births outside wedlock is the 30 to 34 range, followed by that from 35 to 39. 10/

140. The birth rates for the 15-19 age group, according to official statistics, are the following:

1986	1987	1988	1989	1990	1991	1992	1993
12.7	12.0	11.3	11.9	11.2	11.9	12.3	13.1

Source: Abstract of Statistics 1993 No. 47 (1995).

One reason that is given for the increase in the younger age-bracket is peer pressure. Ignorance of sexual matters cannot be excluded, yet there is a great deal of teaching and exposure to sex education in the media, magazines and in schools.

141. Alternative care with reference to article 20 in conjunction with article 25 of the Convention envisages mainly adoption, fostering and placement in institutions. All three modes of care - permanent or temporary - are available in Malta and well regulated at law. Fostering as such is to be introduced formally under that name but the courts are known to entrust the "care and custody" of minors to relatives or third parties in such a manner as would require supervision and monitoring of the minor and support for the carers (see also sect. K below).

G. Adoption (art. 21)

142. Adoption in Malta is regulated by a chapter on the matter in the Civil Code dating from 1962 which replaced previous provisions and which takes more into account developments in child welfare and suitability of pre-placement and placement. At the time of its enactment the law proved to be a pioneering piece of legislation to the extent of its being taken as a model by some countries in Europe. In terms of that law, and in line with the preamble to article 21 of the Convention, the primary consideration for the placement of a child for adoption is the best interest of the child.

143. The competent authority which determines whether an adoption is to be decreed is the Civil Court of Voluntary Jurisdiction (comparable to a court of civil jurisdiction in family affairs). When it comes to determining authorization the court considers, among other things, the age of the applicants and the familial and social backgrounds by means of a home study report drawn up by the guardian of the child appointed by the court. The consent of the parents must also be given. This is to be given without

duress, pecuniary considerations or rewards, and with the full knowledge of the legal implications that the bond established by adoption entails. If the child is 14 years or over his or her consent for the adoption must also be given. Where the child is born out of wedlock the biological or natural father is given a hearing but the court will not let him keep the child if the best interests of the child do not warrant it.

144. In Vella v. Republic of Malta (22 April 1991), the Constitutional Court rejected all human rights complaints which were referred to it by the Civil Court. Both courts argued that the denial of access to the child was not in violation of the fundamental human right of the natural father to protection from inhuman treatment if his child were to be adopted. Although the father's request for access appeared to be prima facie justified, the interests of the child were paramount. The courts agreed with the principle expressed by English courts to the effect that the natural father could not be considered in the same position as a legitimate father. The father subsequently took the case before the European Court of Human Rights in Strasbourg, claiming that his daughter was forcibly being taken away from him and that his rights to respect for family life and to a fair hearing had been violated. The Commission rejected the claims on the basis of inadmissibility: there was no breach of article 6 (1) of the European Convention or of the notion of family life since the natural parents in this case were not living together. According to the Court the notion of family in article 8 "is not confined solely to marriage-based relationships and may encompass other de facto family ties where the parties are living together outside of marriage". The Maltese courts had, moreover, given the father a fair hearing. In a similar case - Keegan v. Ireland (1994) - the Court in Strasbourg came to different conclusions but the facts were not identical and therefore the judgement was entirely justified.

145. In determining whether an adoption decree is to be made the court will have to take into account the welfare, health and the wishes of the person to be adopted, having regard to his/her age and understanding, as well as the religious persuasion of the child and of his/her parents. The law also regulates intercountry adoptions. In determining these adoptions the court is guided by the Hague Convention of 1964 on adoptions which relates to jurisdiction, choice of law and recognition of foreign adoptions.

146. On a bilateral level Malta has to date negotiated an agreement with Romania which ensures that the requirements of paragraph (e) of article 21 of the Convention are observed. A similar agreement with another country is in an advanced stage of negotiation.

147. In the near future there are plans for a National Commission for Adoption and Fostering to be set up which will regulate, monitor and control adoption procedures in Malta according to domestic law and the norms of this Convention in general and article 21 in particular.

H. Illicit transfer and non-return (art. 11)

148. Malta has as yet to ratify the Hague Convention on the Civil Aspects of International Child Abduction (1980) and the European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and

on Restoration of Custody of Children (1980). The relevant bill is to be presented to Parliament for the incorporation of these two conventions into Maltese domestic law. So far the law applicable is the ordinary law, including the Civil Code, the Code of Organization and Civil Procedure, the Criminal Code and the Extradition Act.

149. Although the number of matrimonial cases involving a foreign element is increasing, that of known cases involving child abduction (or relocation) to or from Malta is, by comparison, low. When they do happen they tend therefore to attract unusual prominence in the local press.

150. The courts would consider the existence of an order made by a foreign court and uphold it - see Camilleri noe v. Cholmondley-Waldron (1987). Formerly, principles such as comity, public policy and forum conveniens could offer grounds on which to find for or against the order of the foreign court. Nowadays, the prevailing principle is the interests of children in matters relating to their custody - see Magri utringue (Coll. vol. XXXIII. i.1).

151. Admittedly, problems do arise, especially where investigations to establish the whereabouts of the defendant, abroad or locally, may take time. The judicial process is also time-consuming and in the course of events the interests of the child tend to become rooted in the place where the foreign order is contested. In Baer v. Schembri (7 May 1993) the case involved a child who was the victim of two abductions to and from Malta. The Court of Appeal rightly observed that "the child had lived, from birth up to the commencement of proceedings, for a maximum of six months in England and the rest - three years and eleven months at least - in Malta; such that it was not in the interests of the minor that he be uprooted from the environment he had grown used to".

152. In the case Thake (pro Sample) v. Portelli (4 November 1994) the Court of Appeal had similarly decided, notwithstanding the fact that the same court reprehended the defendant for abusively removing the child from the plaintiff abroad. This was a controversial judgement and the subject of public debate for some time. As much as it highlighted the importance of the best interest of the child principle, the judgement exacerbated the need for the Hague and European Conventions to be brought into effect sooner rather than later.

153. But a parent can rely on a new amendment to the warrant of prohibitory injunction for the purpose of restraining a person from taking a minor outside Malta (sect. 877, Code of Criminal Procedure). The amendment was introduced in October 1995 and included under this warrant instead of the warrant of impediment of departure, which is now defunct except against a maritime vessel. The warrant shall be served on the person or persons having, or who might have, the legal or actual custody of the minor, enjoining them not to take or allow anyone to take the minor out of Malta. The warrant is served on the officer charged with the issue of passports in order that the child is not issued a passport or that his name is not included in one. If a passport is already issued or the child is included in one, the former will be withdrawn and the name of the child on the latter will be cancelled. The Commissioner of Police is also notified not to allow the child to leave the island. Any person defaulting on these provisions shall be guilty of contempt of court. It is also a crime unlawfully and forcibly to remove any person to any other

country or to wrongfully detain, arrest or confine any citizen of Malta in any other country, punishable with 13-35 months' imprisonment (sect. 90, Criminal Code).

I. Abuse and neglect (art. 19), including physical and psychological recovery and social reintegration (art. 39)

154. Article 19 focuses on offences and rehabilitation whilst article 39 is concerned mainly with rehabilitation.

155. The general view in Malta is that the country does have the necessary wherewithal to protect children and combat child abuse. On the one hand, the perception is that various forms of child abuse are "sufficiently numerous and of sufficient concern to justify concentrated professional action". 11/ On the other hand, there are no "official statistics and research studies that document the prevalence of child abuse and neglect under its various forms and manifestations". 12/

156. Protection of the child from offences mentioned in article 19 derives from the Criminal Code. In the first place, the Code seeks to preserve the peace and honour of the family and its members. It then lists crimes against morals. With regard to children and young people, crimes range from abduction, defilement, abandonment and abuse of the child, to crimes against the person, like rape and bodily harm, to suppressing the child's civil status (sects. 198-210 of the Criminal Code). But crimes relating to torture or to inhuman and degrading treatment as are mentioned in article 39 are non-existent.

157. Provisions at Maltese law on physical offences are both generic, concerning the human person, and specific where the offence is related to the child or where, the offence being against the child, there is aggravation. A variety of specific provisions deal with sexual offences.

158. The physical abuse of children (a "minor" at law) is generally covered by section 214 of the Criminal Code, which says "Whoever, without intent to kill or to put the life of any person in manifest jeopardy, shall cause harm to the body or health of another person, or shall cause to such other person a mental derangement, shall be guilty of bodily harm." The Criminal Code is specific when it deals with defilement, rape and prostitution - section 203 on defilement, section 198 on rape, with section 202 on aggravations involving children, and sections 197 and 204 on prostitution of children. 13/

159. Psychological and emotional abuses like neglect, stress and trauma - to mention but a few that may attract criminal liability - may not be that easy to define legally, they being a consequence or effect rather than the offences or causes themselves. They could be included within "mental derangement" of section 214 if they cause an infirmity to body or mind or if they prove to be of harm to the health of the child. There could, however, be a case for introducing specific legislation in this regard.

160. Other less serious abuses, which are strictly not a crime, like unreasonable chastisement, ill-treatment, neglecting or endangering the

education of children (sect. 154 of the Civil Code) give rise to civil liability, like forfeiture of parental responsibilities or patria potestas. The provision in the Criminal Code that is most akin to chastisement is the contravention in section 339 against a person "who being authorized to correct any other person, exceeds the bounds of moderation".

161. Provisions in the Criminal Code aimed at protecting children, and sanctions, are listed below:

(a) Of parents or relatives who induce or compel their child to prostitution, to imprisonment from three to six years with or without solitary confinement (sect. 197);

(b) Of whoever defiles a child, to imprisonment of up to two years with or without solitary confinement (sect. 203);

(c) Of whoever induces a child to prostitution or encourages or facilitates the prostitution or defilement of a child, to imprisonment from 18 months to 4 years with or without solitary confinement (sect. 204);

(d) Of whoever kidnaps a child, conceals or substitutes it or falsely attributes its birth to another woman, to imprisonment from 18 months to 3 years (sect. 210);

(e) For infanticide by a woman of her child, to imprisonment for up to 25 years (with puerperal insanity mitigating) (sect. 245);

(f) Of whoever abandons or exposes a child under seven years of age, to imprisonment from 7 to 12 months (sect. 246);

(g) Of whoever discovers a foundling and fails to take care of it or report the find, to imprisonment from one to six months (sect. 248).

162. The Criminal Code further provides that any person (including a child) may report any offence liable to prosecution (sects. 535 and 538).

163. The Civil Code states that, notwithstanding any of its other provisions, a court of civil competence may, upon good reason, give directions as it may deem appropriate regarding the person or property of a child in the child's best interests (sect. 149). Section 473 of the Code says that any person may appear spontaneously before the court (the Second Hall) to give it information in a cause for personal separation (implying that there could be concern also for the child of the marriage).

164. Crimes like rape and other sexual abuses, unless reported and prosecuted, remain unknown except to practitioners like doctors, psychologists, psychiatrists, lawyers, teachers and social workers. The police act ex officio in cases of rape, but in cases of defilement of minors the complaint of the child's representative, on behalf of the injured child, is required (sect. 203 (3) of the Criminal Code). If there is defilement or carnal knowledge with violence, abduction or violent indecent assault and

these are accompanied by public violence or with any other offence affecting public order, then the complaint of the injured party is not required (sect. 544).

165. The legal age in Malta of "statutory rape" or the age below which consent to sexual intercourse is not relevant to prove the offence of rape is 18 (sect. 203). The crime is aggravated in certain circumstances if the victim is under 12 years of age.

166. At law any person of sound mind and irrespective of age may make a complaint to the police who are then bound to investigate according to law. If for some reason or other the police are not approached, social workers may be contacted. In all cases confidentiality is respected.

167. Statistics for defilement of minors in Malta indicate that for the period 1991 to 1995 there were 114 cases reported to the police, of which 88 were brought to court. The following table gives a breakdown:

	Reported	Prosecuted
1991	17	16
1992	24	21
1993	21	19
1994	30	20
1995	22	12

168. For the same period 23 cases of physical abuse were reported, involving one serious case of child battering (in 1994). During the period 1990 to 1994 the Department for Children and Family Services (DCFS) had 36 and 34 known cases of child sexual and physical abuse respectively.

169. The ratio of incidence of cases as reported to the ages of children affected is as follows:

0-1 year	22
1-3 years	15
4-6 years	16
7-9 years	12
10-12 years	14
13-14 years	6
15-17 years	1

170. By way of random sampling, 14/ a 1995 questionnaire survey by seven final year B.A. (Hons) psychology students of 471 25-year old questionnees showed that, out of 132 respondents, 99 or 75 per cent stated that they had never been abused. Of the remaining 25 per cent (33) who stated that they had been abused, there were 14 males, 17 females, while 2 did not specify their gender. As regards the type of abuse, 19 of the 33 had suffered sexual abuse, 6 serious physical abuse and 8 emotional abuse. The age at which the abuse occurred was from 3 to 8 years for 13 persons, 8 to 12 years for 14 persons and 13 to 18 years for 3 persons. One cannot hypothesize, as the paper does, as to what the 72 per cent of non-respondents would have said had they replied to the questionnaire.

171. The Ministry for Social Welfare (MSW) implements, coordinates and monitors strategies and mechanisms that aim to prevent and remedy the incidence of cases of abuse and neglect through rehabilitation and protection. 15/ The Department of Family Welfare (DFW), in collaboration with other welfare agencies, fosters awareness, treats cases of children at risk or abuse and evaluates results. The Department, formerly known as the Department for Welfare, has been monitoring cases of child abuse and offering protection to children since it was founded about 40 years ago.

172. At the Home Affairs Department, the Police Vice Squad set up in June 1993 the Victim Support section to monitor cases of abuse. It provides assistance to female victims of assault and to battered women referred to it from district police stations, investigates reports of absenteeism from home, liaises with other organizations and agencies and undertakes interdisciplinary cooperation with them, especially on cases of violence against women, proposes changes to policy and legislation, keeps statistics on the incidence of abuse of children and women and periodically organizes awareness campaigns on the media.

173. In 1994, the Social Welfare Development Programme (SWDP) was set up as a Government-funded parastatal agency whose staff monitor child abuse and domestic violence. The Child Protection Service Unit (CPSU) of the SWDP has reported that child abuse went up from about 50 between 1992 and 1994 to over 500 between November 1994 and June 1996. The Unit's coordinator admits, however, that the rise in allegations may not be due to an increase in incidents but to heightened public awareness about abuse, adding that people reporting abuse "want to remain anonymous". The DFW, the SWDP and others take help-line and support-line calls and investigate alleged cases of abuse. A trained social worker would normally visit the child to investigate.

174. The Court of Voluntary Jurisdiction (the Second Hall of the Civil Court) is competent to hear cases respecting "the person or the property of a minor as it may deem appropriate in the best interests of the child" (section 149 of the Civil Code). These measures are far-reaching and in the generality of cases achieve good results. As one correspondent put it in a comparative article on child abuse: "To the best of my knowledge no country in the free world has granted such access to the judiciary. It means that the court can and will use all its power to ensure the physical and moral health of a child. The power of the court is considerable." 16/

175. Both at ministry and departmental levels prevention and remedial programmes are carried out by teams of qualified social workers liaising closely with other practitioners with the Health and Education Ministries.

176. In 1996, the former Division for Social and Family Affairs (DSFA) and the Trustees of the Conservatorio Vincenzo Bugeja Foundation, through a Board of Management constituted in 1994, initiated in February 1997 Programm Fejda, with the collaboration of DCFS. The project will be a day and residential therapeutic programme for adolescent girls with emotional and behaviour difficulties. The Programme offers a holistic approach to care, counselling and education for up to 40 girls aged 12 years and over who may stay at the centre for a minimum of six months. The aim of the Programme is to give each young person another opportunity of learning how to grow in a nurturing and healthy environment.

177. As a matter of priority the Ministry for Social Welfare is working on a project that will link together under one central agency on-call, help-line, telecare and crisis intervention systems. This will help coordinate and make more effective welfare services to children and families in need of support for various reasons. The DFW and the SWDP already operate such services, which, however, need expanding. The Health Division also provides out-patient services by doctors and psychologists at hospitals and polyclinics. Some NGOs have their own help-line.

178. Mandatory reporting of sexual and other offences involving children is not on the statute books in Malta. There are a number of reasons for this. Although the perception is that many different types of child abuse are on the increase, the numbers are not confirmed and reports of sexual abuse have remained relatively constant in comparison with the total number of all cases reported. 17/ But the "ethos of discovery" is taking root independently of any mandatory requirements. Currently, any investigation involves the victim with the welfare authorities and the alleged perpetrator with the police. The overlap is inevitable. The revulsion with which child abuse is regarded could make it difficult to entertain the possibility that allegations are ill-founded or malicious, with the result that there might be miscarriages of justice and the stigmatizing effects very difficult to redress. Besides, on grounds of natural justice and fair hearing, in mandatory reporting the perpetrator would have the right to know who his accuser is, whereas otherwise anonymity prevails if this is for the better interest of the offended, which also may be served by pursuing a medical without a legal investigation. For mandatory reporting, methods of case-taking, interviewing and validating allegations would have to be updated (e.g. recording by audio and videotape). In this sense conditions, methods and investigating personnel would need to be more sensitive and user-friendly, especially to younger children. A clear definition of "abuse" is needed. It could be made to include emotional, physical, psychological and sexual dimensions, as well as neglect. Certainly a definition of what constitutes any of these would need to be formulated whether it should apply to children or to other special categories of vulnerable persons like incapacitated adults or persons with disabilities would need to be determined. There should also be a centralized office dealing exclusively with allegations of abuse. The Office of the Ombudsman or the Office of the Director General, Social and Family Affairs, would be ideal.

One advantage is that within a centralized unit better monitoring can be had especially if a "children at risk" register is kept and updated regularly.

J. Periodic review of placement (art. 25)

179. The matter is regulated by Legal Notice 13 of 1962 on the placing of children and the regulations that apply. Section 3 lays down that it is the duty of social workers to visit and examine from time to time children and premises in which children stay in order to monitor their progress, give advice and inspect maintenance of premises. Admissions, stays and discharges are to follow an established procedure. The DFW reviews the position of each child in care and case conferences are held to determine what is to be done in the best interests of the child concerned.

180. Certainly the need is felt for the parents of children in residential homes to take greater interest in the affairs of their children. Some parents seldom visit them in the homes and would go so far as to refuse to give consent for their child to be fostered. Hence there is room for more improvements and a project is in hand for a programme on fostering to be promoted and brought into effect on a national level that will change institutionalized care to care that lends itself more to a family setting. The legal provisions that will support the programme are contained in a draft bill for a Children Act. Other measures include financial provisions for foster carers in the Social Security Act.

K. Other information and statistics

Homeless children

181. The Adoption and Fostering Unit (AFU) of DFW records that up to June 1996 it had four reported cases of young female adolescents between 14 and 18 without a home, and said that this was due to lack of adequate residential facilities for the 9 to 16-18 age group.

Abused children

182. The Child Protection Unit reports that from September 1994 up to 1 July 1996, 495 cases of child abuse were referred to it. The nature or degree of the abuse are not indicated.

Care orders

183. The Family Services Unit of DFW records 50 care orders issued for the period 1987-1995 in favour of children aged between 0 and 17 years. Children under the age of one year were the most affected. 18/ The break-down is as follows:

Age	No. of children
0 to 1	27
4 to 6	16
7 to 9	20
10 to 12	12
13 to 14	8
15 to 17	4

Foster placements

184. The concept of fostering in Malta has yet to come into its own: there are few foster carers 19/ and the law on fostering is still in draft form. Up to now, fostering is arranged through DFW in collaboration with other agencies. The competent court may always be resorted to for the issue of a decree of "care and custody". In 1995 the then Ministry for Social Policy through the SWPU issued a national policy document on fostering. Its recommendations, like awareness programming, more intensive child reviews and legislative measures, were expected to start being implemented in 1996.

185. The proposed Children Act includes a chapter on fostering which refers to a panel, which is already functioning, to advise the Division of Social and Family Affairs on each particular foster placing and to make recommendations as to policy and other related issues.

Institutional care

186. The number of children in homes managed by about 18 Church-run residential institutions was 434 for the period 1992-93; the average is about 300 from year to year. Some of the homes are shown below with the number of children residing there for the period 1992-1995.

	1992	1993	1994	1995
Ursuline Sisters Homes, Sliema & G'Mangia	141	148	125	131
St. Joseph Home	14	14	10	21
Lourdes Home	17	19	18	0
St. Euphrasia Home	0	0	0	3
St. Patrick's School	41	45	52	46
Vincenzo Bugeja Home	9	5	7	8

Three other day centres for children from families with difficulties are situated in Birkirkara, Hamrun and Zejtun and are also Church-managed.

187. The problem with children in residential care is that girls could remain in care practically throughout their minority, whilst some boys, for lack of an adequate number of homes, tend to return, for better or for worse, to their homes. There are not enough social workers to review their cases in time to provide remedies. The protective measures mentioned under article 18 of the Convention may give cause for concern in this respect. In the absence of regular reviews children are often alienated from their families with the result that reintegration simply becomes too difficult to achieve.

188. The Government, through the DCFS and other bodies, supports the homes by social work intervention, by exploring possibilities for fostering and adoption, and by periodically reviewing the position of the children within these homes. Additionally, the DSFA assists in the running of the homes by providing a subsidy for each and every child in a home. Data from the NGO Liaison Office of the Division show that the Division spends annually about LM 63,000, broken down into LM 7,490 for free milk, a LM 30,000 per capita grant to four church residential homes, and LM 25,100 for children's allowances to 12 church homes (see table 1 below). To the Conservatorio Vincenzo Bugeja, St. Venera, a home for adolescent girls, and Merhba Bik in Balzan, whose Good Shepherd Sisters run the only home in Malta for battered women or women with children (about 13 with children under 10 years), the Division grants some LM 30,000 and LM 22,000 annually for their upkeep. Tables 1 and 2 below give a breakdown of the grants by the State to residential homes for the period 1985 to 1991 (in LM)

Table 1

Grants by type of grant and by facility

Church-run residential care facility	Free milk	Per capita grant	Children's allowance
Angela House	1 200	-	6 000
Cini Institute	120	-	
Dar tal-Providenza	580	-	3 000
Dar Sagra Familja	360	-	1 100
Fra Diegu Home	700	-	2 100
Jesus of Nazareth Home	500	-	600
Lourdes Home, Gozo	300	840	1 000

Church-run residential care facility	Free milk	Per capita grant	Children's allowance
Rehab. Centre	130	-	-
St. Frances de Paule	400	-	-
St. Joseph Home, St. Venera (for boys)	600	1 670	-
St. Joseph Home, Zabbar	320	-	1 100
St. Joseph Home, Zejtun	180	-	1 100
St. Rita Home	480	-	2 000
St. Theresa Home	220	-	500
Ursuline Sisters -			
Sliema	1 100	26 000	5 500
Valletta	300		1 100
Vincenzo Bugeja Institute	-	1 600	-
Total (62 700)	7 490	30 110	25 100

Table 2

Total grants per year (LM)

1985	103 557
1986	100 567
1987	97 675
1988	100 905
1989	106 847
1990	147 610
1991	152 823

Source: Annual "Estimates", volumes: 1987-1993.

Adoptions

189. Adoptions in Malta and from other countries to Malta from 1987 to May 1996 were as follows:

Country	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996
Malta	16	19	5	4	11	10	11	4	15	7
Albania						3				
Australia					1					
Bosnia and Herzegovina							3	1		
Brazil	1	3	4	1		1	3	1		
Canada							1			
Germany	1									
Ireland	1	1								
Kenya		1								
Libyan Arab Jamahiriya	1									
Italy		1					1			
Pakistan	1		1		1			1	1	
Peru		1	1		1					
Romania				14	114	19	3	2	13	5
Singapore						1				
Ukraine							3			
United Kingdom	3	3	2	1	3	1		1	1	
Subtotal	24	29	13	20	131	35	25	11	31	12
Grand total	331									

190. In 1994 Malta and Romania signed an intercountry Adoption Agreement to enable Maltese couples to adopt children from Romania. A similar agreement was signed with Albania in 1996.

VI. BASIC HEALTH AND WELFARE

A. Survival and development (art. 6, para. 2)

191. Malta has a modern and advanced health system with a comprehensive and free hospital service for all and a free general practitioner and nursing service with a network of dispensaries managed from centres scattered around

the country. National insurance is compulsory and every citizen is covered by a national health scheme. Services include health care and hospitalization, environmental and occupational health, disability, drug addiction and mental health. Services for children include paediatric, mother and child health, family planning, immunization, speech therapy, physiotherapy, ophthalmic, dental and medical. Follow-up treatment and other support services are provided at home after hospitalization.

192. There are two major State hospitals - one in Malta (St. Luke's) and another in Gozo (General Hospital) - besides two private hospitals and several private clinics. The first government health centre was set up in 1980; currently there are 8 district health centres which are open 24 hours a day, and 40 community-based health clinics.

193. The highly developed system of medical services is reflected in the low incidence of infant mortality and the increase in life expectancy of the population (see also sect. III.c). The following tables and figures give statistical data for the period 1986 to 1993 on:

(a) Births for the period 1986-1993;

(b) Deaths for the period 1984-1993 inclusive of ages from under 1 to under 19 years;

(c) Death rates specific to sex and age group 1986-1993 inclusive of ages from under 1 to under 19 years;

(d) Expectation of life at specified ages; and

(e) Trends in proportionate mortality.

194. The latest statistics show that the number of live births during 1995 was 4,612 compared with 4,826 in 1994. The total number of births in 1993 was 5,147 or 14.1 per 1,000 population. This is the lowest rate for the period 1986-1993 (see table below) the highest being 15.8 for the years 1987, 1988 and 1989. Stillbirths also decreased to 25 in 1993, but the lowest number was 21 in 1992 and the highest 50 in 1988.

Table 3

Births, 1986-1993

	1986	1987	1988	1989	1990	1991	1992	1993
LIVE BIRTHS	5 245	5 314	5 533	5 584	5 368	5 302	5 474	5 147
Males	2 778	2 720	2 817	2 813	2 786	2 704	2 804	2 679
Females	2 467	2 594	2 716	2 771	2 582	2 598	2 670	2 468
Illegitimate	80	63	96	94	95	106	126	115
% illegitimate	1.5	1.2	1.7	1.7	1.8	2.0	2.3	2.2

	1986	1987	1988	1989	1990	1991	1992	1993
Total per 1,000 population	15.3	15.4	15.8	15.8	15.1	14.7	15.1	14.1
Total per 1,000 aged 15-49	59.4	59.9	61.8	62.0	58.9	57.3	58.3	54.2
Males born per 1,000 females	1 126	1 049	1 034	1 015	1 079	1 041	1 050	1 085
STILLBIRTHS	43	39	50	44	32	26	21	25
Rate per 1,000 births (including stillbirths)	8.1	7.3	8.9	7.8	5.9	4.9	3.8	4.8

Source: Annual Abstract of Statistics 1993.

195. During the period 1984-1993 (see tables 4, 5 and 6 below) the number of deaths fell from 2,903 and 2,900 in 1984 and 1992 respectively to 2,693 in 1993 or about 0.78 per cent. This was made up of 1,414 males and 1,279 females. Infant mortality also decreased from 74 in 1985 to 42 in 1993, and 39 in 1987. In 1995 there were 40 deaths under the age of one year, representing an infant mortality rate of 8.7 per 1,000 live births.

Table 4

Age in completed years at time of death, 1984-1993, by sex

Year	All ages	>1	1<	5<	10<	15<	20<	25<	35<	45<	55<	65<	75<
						All persons							
1984	2 903	65	13	7	2	8	15	35	50	157	421	739	1 391
1985	2 837	74	14	8	7	5	14	28	43	130	392	718	1 404
1986	2 824	53	10	9	6	8	17	34	61	118	369	710	1 429
1987	2 908	39	9	5	3	7	19	35	61	134	355	676	1 565
1988	2 708	44	10	6	1	6	14	33	67	110	358	682	1 377
1989	2 610	58	3	3	1	14	12	30	72	111	359	628	1 319
1990	2 745	49	8	6	6	4	10	28	56	128	337	630	1 483
1991	2 875	51	6	1	3	12	13	30	63	115	330	696	1 555
1992	2 900	59	8	5	6	11	20	34	72	141	319	718	1 507
1993	2 692	42	8	5	1	6	10	33	57	108	315	659	1 448
						Males							
1984	1 498	34	6	3	2	6	12	21	26	87	254	392	655
1985	1 453	47	10	4	4	3	11	13	21	83	256	413	588
1986	1 454	27	6	9	4	6	12	24	35	76	231	388	636

Year	All ages	>1	1<	5<	10<	15<	20<	25<	35<	45<	55<	65<	75<
1987	1 498	22	6	4	3	5	15	23	35	83	213	372	717
1988	1 391	16	3	2	0	6	12	21	43	64	212	385	627
1989	1 313	34	1	2	1	12	9	22	39	75	207	348	563
1990	1 401	28	5	5	1	4	9	20	29	79	198	369	654
1991	1 459	34	1	1	1	11	11	21	32	71	204	389	683
1992	1 483	36	5	5	3	8	14	29	42	75	187	400	679
1993	1 414	28	7	2	0	5	6	24	30	69	180	392	671
						Females							
1984	1 405	31	7	4	0	2	3	14	24	70	167	347	736
1985	1 384	27	4	4	3	2	3	15	22	47	136	305	816
1986	1 370	26	4	0	2	2	5	10	26	42	138	322	793
1987	1 410	17	3	1	0	2	4	12	26	51	142	304	848
1988	1 317	28	7	4	1	0	2	12	24	46	146	297	750
1989	1 297	24	2	1	0	2	3	8	33	36	152	280	756
1990	1 344	21	3	1	5	0	1	8	27	49	139	261	829
1991	1 416	17	5	0	2	1	2	9	31	44	126	307	872
1992	1 417	23	3	0	3	3	6	5	30	66	132	318	828
1993	1 279	14	1	3	1	1	4	9	27	39	135	267	777

Source: Annual Abstract of Statistics 1993.

Table 5

Death rate, 1986-1993, by age and sex

	All ages	0-4	5-9	10-14	15-19	20-24	25-34	35-44	45-54	55-64	65+
						Males					
1986	8.6	2.3	0.6	0.3	0.5	0.9	0.8	1.3	4.5	16.1	69.3
1987	8.8	2.0	0.3	0.2	0.4	1.2	0.8	1.3	5.0	14.7	72.6
1988	8.1	1.4	0.1	-	0.5	1.0	0.7	1.5	3.8	14.5	66.3
1989	7.6	2.5	0.1	0.1	0.9	0.7	0.8	1.4	4.1	14.3	57.6
1990	8.0	2.4	0.3	0.1	0.3	0.7	0.7	1.0	4.1	13.4	63.5
1991	8.2	2.4	-	-	0.8	0.8	1.4	2.2	4.9	14.0	73.5
1992	8.3	3.0	0.4	0.2	0.6	1.1	1.1	1.4	3.5	12.3	64.3
1993	7.8	2.6	0.1	-	0.3	0.5	0.9	1.0	3.0	11.5	62.5

	All ages	0-4	5-9	10-14	15-19	20-24	25-34	35-44	45-54	55-64	65+
						Females					
1986	7.9	0.2	-	0.2	0.2	0.4	0.4	1.0	2.2	8.2	57.8
1987	8.0	1.5	0.1	-	0.2	0.3	0.4	0.9	2.7	8.3	58.5
1988	7.4	2.7	0.3	0.1	-	0.2	0.4	0.8	2.5	8.4	51.9
1989	7.2	2.0	0.1	-	0.2	0.3	0.3	1.1	1.8	8.7	50.0
1990	7.5	1.8	0.1	0.4	-	0.1	0.3	0.9	2.4	7.9	51.1
1991	7.8	1.6	-	0.1	0.1	0.1	0.6	2.2	3.1	8.9	83.3
1992	7.7	2.0	-	0.2	0.2	0.5	0.2	1.1	2.9	7.3	15.4
1993	6.9	1.2	0.2	0.1	0.1	0.3	0.3	1.0	1.6	7.3	45.9

Source: Annual Abstract of Statistics, 1993.

Table 6

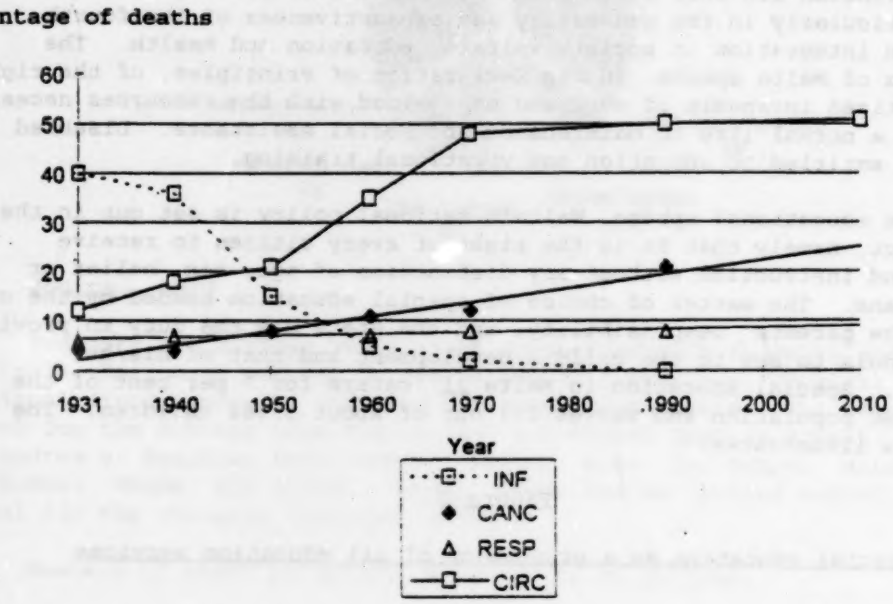
Expectation of life at specified ages, by sex

Age	Males		Females	
	1870-1872	1993	1870-1872	1993
0	44.7	74.7	47.47	78.5
1	55.7	74.4	55.7	78.0
5	54.5	70.6	54.4	74.0
10	53.5	65.7	53.7	69.1
15	49.6	60.7	50.1	64.1
20	46.0	55.8	46.3	59.2
25	42.7	50.9	42.7	54.2
35	34.0	41.3	34.0	44.4
45	26.5	31.6	26.2	34.8
55	19.1	22.5	18.2	25.3
65	12.4	14.4	12.8	16.9
75	7.1	8.2	7.1	9.3

196. The figure below illustrates trends in proportionate mortality (including infant mortality) from 1931 to 1990, with projections to 2010, being a result of development and population change this century.

Figure 1

Trends in proportionate mortality



197. According to the health policy paper Health Vision 2000 "nearly 12 per cent of newly born babies in Malta weigh 4 kg or over. The proportion of obese Maltese children is very high. An average of 12 per cent of 5-year-olds are obese". The paper recommends that: "By the year 2005 the proportion of children under 10 years who are above the 97th percentile of the WHO reference weight for height should be no more than 5 per cent", and "By the year 2005 the proportion of children above 10 years who are above the 120 per cent of the Baldwin reference weight should fall at least 15 per cent". The paper proposes "working with the School Medical Services and the Education Authorities to impart dietary advice to school children ... encourage the availability and consumption of healthier foods and increase in physical activity for school children and adolescents" and "slowing the weight gain in overweight children whilst they are growing with the aim of reaching normal weight-for-height at the age of 12".

198. The Department of Primary Health Care manages the School Health Service. This is composed of a group of doctors and nurses (9 and 10 respectively in 1995). It is responsible for the school immunization programme (TB and MMR), school medical entrance examinations and the state of hygiene of schools. It is also planning to develop a comprehensive vision and hearing screening programme. To date the Service has introduced a scoliosis screening programme with the participation of physical education teachers. Health

Vision 2000 believes the major components of the service "will shift from a medical model to one where health education and health promotion become prominent". 20/

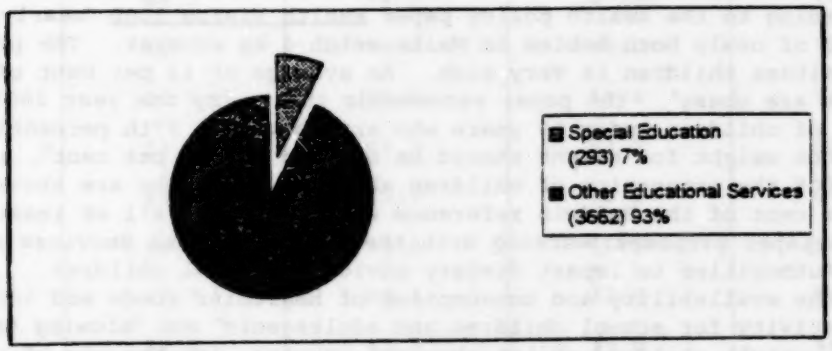
B. Disabled children (art. 23)

199. Physically and mentally disabled children are deserving of every support and the Convention did well to include a comprehensive article in their regard, particularly in the generality and exhaustiveness of its fourth paragraph on integration in society welfare, education and health. The Constitution of Malta speaks, in its Declaration of Principles, of the right of every citizen incapable of work and unprovided with the resources necessary for leading a normal life to maintenance and social assistance. Disabled persons are entitled to education and vocational training.

200. In the educational sphere, Malta's national policy is set out in the Education Act, namely that it is the right of every citizen to receive education and instruction without any distinction of age, sex, belief or economic means. The matter of choice of special education needed by the child is solely the parents' responsibility, and the State has the duty to provide special schools to see to the child's development and that of his/her personality. Special Education in Malta 21/ caters for 7 per cent of the whole student population and serves 293 out of about 3,662 children. The figure below illustrates:

Figure 2

Special education as a proportion of all education services

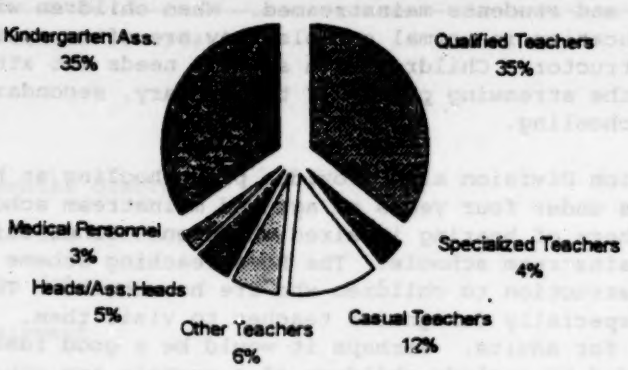


Source: National Commission on Persons with Disabilities.

201. Special education is served by six categories of teacher grades including medical personnel and specialized staff. In all, teachers total 358 out of about 3,500 for the whole country (see Figure 3 below).

Figure 3

Professionals in special education



Source: ibid.

202. Teachers are divided among eight special schools in Malta and Gozo with curricula that cover partial to severe mental disability, physical disability, emotional disturbance and auditory and sight impairments. The schools are: School for the Hearing Impaired, Pieta; San Miguel Special School, St. Andrew's; Guardian Angel School, Hamrun; Mater Dei School, Msida; ESN School, Msida; ESN School, Sannat, Gozo; Dun Em. Attard School, Wardija; School for the Visually Impaired, Qrendi.

203. Members of staff in special schools are as follows:

Head of schools	7
Teacher in charge	1
Teachers	42
Instructor	1
Kindergarten I and II	33
Physical training Kindergarten I	15
Peripatetic staff	20 (who ensure 35 weekly assignments)
Paramedical Staff	nurses, speech and occupational therapists in attendance.

204. The all-schools population of disabled children is as follows:

	Boys	Girls	Total	%
Special schools	268	124	392	46.26
Mainstream	293	163	456	53.73

Mainstream:

Primary	359 pupils
Secondary/trade schools	94 pupils
Post-secondary	3 pupils

Thus, the majority of children with special needs attend school with their peers in normal schools. This is in line with current European and international practice, and the Education Division is cooperating with NGOs to have more pupils and students mainstreamed. When children with special needs receive their education in normal schools they are often assisted by a facilitating instructor. Children with special needs who attend special schools observe the streaming policy of the primary, secondary and post-secondary schooling.

205. The Education Division also provides pre-schooling at home for children with disabilities under four years of age and mainstream schooling by peripatetic teachers of hearing impaired children. Other children are integrated via mainstream schools. The Home-Teaching Scheme of the Division also provides instruction to children who are housebound. These children may apply to have a specially designated teacher to visit them. Lip-reading classes are held for adults. Perhaps it would be a good idea if these classes were to be extended to include children of a certain age upwards.

206. The Special Education Section coordinates the eight schools for the 392 children with disabilities and the other 456 children in mainstream schools, some of whom have even been allocated a personal assistant. It also organizes classes for children in hospitals and peripatetic teaching for sick children at home.

207. With regard to health, the Health Division offers diagnostic services for all disabled persons and medical assessment of any type and degree of disability, physiotherapy, limited speech therapy services, as well as genetic counselling by way of information and advice regarding the cause and prevention of disabilities. Other services form part of the general practice at State hospitals and include inoculation against infectious diseases like tetanus, diphtheria, polio, mumps, measles, German measles, whooping cough, hepatitis and influenza. Disabled persons in need of long-term medical care are treated in State hospitals according to their condition.

208. Other medical services for children include mental health services within the Child Guidance Clinic and Young People's Unit (YPU). The Child Guidance Clinic was set up at St. Luke's Hospital in 1993 and is run by the Department of Psychiatry within the Child Development Assessment Unit (CDAU) of the Health Division. It has a team of psychiatrists, psychologists, doctors and social workers who normally accept referrals from general practitioners (GPs). The Unit provides diagnostic, assessment and treatment services for children with special needs, and advises and supports their parents. To date the Unit has made assessments of over 342 children. The table below illustrates:

Table 7

Assessment of learning disabilities

Learning problems/mental retardation	98
Downs Syndrome	84
Cerebral palsy	34
Pervasive developmental disorders	16
Neural tube defects and hydrocephalus	10
Speech and language delay	6
Severe visual impairment	5
Severe visual impairment with mental retardation	3
Severe visual impairment with normal mental retardation	2
Severe visual impairment with normal mental development	1
Others	83

Source: CDAU.

209. Check-ups for pregnant women are available regularly at antenatal clinics. Clients are referred from the hospital they first visit for confirmations of the pregnancy and treatment continues right up to the birth of the baby. To monitor the health and development of newlyborn babies there are Well-Baby Clinics run by the Department of Primary Health Care of the Health Division based in several district health centres. Free check-ups are provided for children up to 3 years of age at regular intervals (6-8 weeks, 8 months, 18 months and 3 years) upon referral by specialists.

210. In 1985 the Health Department and the Karolinska Institute in Sweden and the Institute of Hygiene and Epidemiology in Belgium, through the auspices of WHO, reported on the level of lead content in children. Results from blood samples of 100 eight-year-olds showed that the level was high. Further studies tried to locate the source and by way of remedial action lead-free petrol has since been introduced, lead painting in sensitive areas is discouraged if not prohibited and traditional public ovens cannot burn painted wood or consume used automobile oil.

211. The Young People's Unit was set up in 1992 next to Mt. Carmel Hospital for psychiatric diseases and is run by the Department of Psychiatry. It provides residential psychiatric care to children up to the age of 17. Originally intended to offer day and night facilities for young people with behavioural problems and other difficulties, it now accepts referrals from the Juvenile Court and of children with learning difficulties and autism. During 1995 there were 40 clinical sessions, 11 admissions and 16 discharges. About 8,000 families have someone experiencing mental health problems.

212. The Mental Health Reform, formulated and published in 1995, engages the Education Division to programme:

(a) Mental health promotion through an integrated health education system;

(b) Teaching of lifeskills to empower children to cope better with stress;

(c) Provision of adequate schooling to children suffering from psychiatric disorders within the least restrictive environment;

(d) Review of the educational system to identify areas of unnecessary stress and take corrective action to prevent such stress;

(e) Promotion of outside school activities which further develop the individual and promote healthy lifestyles.

213. There is also the contribution of NGOs to further integration of the development programme for disabled children to make it as comprehensive as possible. They include Dar tal-Providenza (Siggiewi), Dar il-Wens (Paola), Dar il-Kaptan (Mtarfa), the Physically Handicapped Rehabilitation Fund and the Muscular Dystrophy Group (Gzira). Services range from residential care to respite, job training and part-time work. The Eden Foundation offers diagnostic and assessment services for children with Downs Syndrome or learning difficulties, cerebral palsy and autism and related problems. The teaching service is run by peripatetic teachers from local schools.

214. As far as welfare is concerned, the service is two-pronged: financial (social security) and supportive (social welfare). The Social Security Department grants a special weekly child allowance to parents of disabled children under 16 who are severely disabled. The Department also pays a disabled persons pension to beneficiaries who are over 16 years of age. It entitles them to a substantial weekly allowance. They may also augment their financial means by any income without forfeiting the pension provided the aggregate total income does not exceed the minimum wage. The latter is currently more than double the pension amount.

215. The Ministry for Social Welfare runs its own adult training centres for persons with disabilities and provides social workers to intervene, identify difficulties and make referrals for medical, financial and housing assistance. DCFS alone in 1995 dealt with 234 cases which needed intensive treatment.

216. The National Commission for Persons with Disabilities (KNPD) has been instrumental over the last nine years in formulating and implementing government policy to coordinate and consolidate services for the disabled originating from Government, NGOs, the Federation of Societies for the Disabled and the national Employment and Training Corporation (ETC), among others. The KNPD was set up in November 1987 by the then Ministry for Social Policy, and to its credit there has been a greater awareness of the needs in this sector. It has introduced and keeps introducing specialized services to the disabled, supports and advises clients on special aids and resources, and collects and furnishes important data through its documentation centre in

Saint Venera. It is managed by a Board made up of representatives from Government, e.g. the Elderly and Special Needs Department, parastatal agencies, e.g. the Employment and Training Corporation, NGOs, families of children with disabilities and persons themselves with a disability.

217. It is the Government's belief that nothing can better serve and support the cause of reintegration mentioned in paragraph 1 of article 23 than to have the proper infrastructure in terms of resources and manpower to further the interests of disabled children and their families. 22/

C. Health and health services (art. 24)

218. Malta is committed to, and has in fact adopted ways and means at primary and secondary level, in terms of preventive and curative methods, for promoting and ensuring health welfare at all stages of life. Survival and development depend as much on a people's way of looking at life from an informed and educated view as much as on practices and services in times when health fails and survival is threatened.

219. By international standards Malta has an advanced health system. Its scientific base as we know it may be said to have been the coming to Malta of the Hospitaller Order of the Knights of St. John of Jerusalem in 1530. The Order had its "Sacra Infermeria" (a kind of general hospital) in Valletta in what still remains the largest hall on the island with adjoining spaces and facilities overlooking the Grand Harbour. It also formed part of the "Universita" of Malta which is, to date, the oldest university in Western Europe outside the British Commonwealth. Over the centuries Malta has had a medical school of renown, with members who are internationally known like Sir Temi Zammit who, with David Bruce, discovered brucellosis (hence its name after the latter); mention must also be made of Professor Preziozi, whose "Preziozi Method" for a particular eye treatment is widely practised, surgeons A. Debono and A. Craig and Prof. Edward Debono of "Lateral Thinking" fame.

220. The laws and regulations that support the health services, and having regard to children and young persons, include:

Medical and Kindred Professions Ordinance (Laws of Malta, chap. 31);

Department of Health (Constitution) Ordinance (chap. 94);

Clean Air Act (chap. 200);

Foods, Drugs and Drinking Water Act (chap. 231);

Mental Health Act (chap. 262);

Dangerous Drugs Ordinance (chap. 101);

Venereal Diseases (Treatment) Act (chap. 124);

Notification of Cancer Act (chap. 154); and

Tobacco (Smoking) Control Act (chap. 1986).

221. Aspects of government policy and practices have already been mentioned earlier in this report, particularly that national health services are free of charge, inclusive of general practitioners' services.

222. For prenatal, infant and child health care, services are concentrated at Karen Grech Hospital, the children's hospital next to St. Luke's Hospital. Similar services are available to children at the Gozo General Hospital. Parents can stay with their children during the latters' sojourn in hospital. Patients may also avail themselves of similar services at private hospitals and clinics. The building of a State university hospital is being considered to update excellence in medical care and to ease pressure on the existing hospital facilities.

223. The following tables show some of the more important statistical data in relation to children, namely infant and maternal mortality, and infant mortality by selected causes. The figures compare well with average figures recommended by the World Health Organization: infant mortality from 1986 to 1993 remained stable, averaging 49 for each year. The highest number was 59 in 1992 and the lowest 42 for 1993. Birth injuries and difficult labour, as well as congenital malformations, kept increasing (table 9), but overall figures remained fairly stable (table 8).

Table 8

Infant and maternal mortality (per 1,000 live births) 1986-1993

Deaths of infants under 1 year of age

	Total	Males	Females	Maternal deaths
1986	10.1	9.7	9.5	-
1987	7.3	8.1	6.6	-
1988	7.9	5.7	10.3	-
1989	10.4	12.1	8.7	-
1990	9.1	10.1	8.1	-
1991	9.6	12.6	6.5	-
1992	10.8	12.8	8.6	-
1993	8.2	10.5	5.7	1

Table 9

Infant mortality, by selected causes, 1986-1993

Causes	1986	1987	1988	1989	1990	1991	1992	1993
ABSOLUTE NUMBERS								
TOTAL	53	39	44	58	49	51	59	42
RATE PER 1 000 LIVE-BIRTHS								
ALL CAUSES	10.1	7.3	7.0	10.4	9.1	9.6	10.8	8.2
All infectious diseases	0.4	-	-	0.2	0.7	0.2	-	0.6
Pneumonia and bronchitis and diseases of the respiratory system	0.6	-	-	0.4	0.7	0.4	0.2	1.2
Congenital malformation	1.9	1.3	2.2	2.3	2.2	3.4	2.9	3.1
Birth injuries and difficult labour	1.3	1.7	1.8	4.4	4.1	3.2	4.7	2.1
Conditions of placenta and cord	1.0	1.1	0.4	0.4	0.7	0.6	1.1	0.2
Anoxic and hypoxic conditions and not elsewhere classified	2.3	1.0	1.1	1.8	0.3	0.6	1.7	0.8
All other and ill-defined causes	2.6	2.2	2.4	1.8	0.4	1.2	0.2	-

D. Social security and child-care services and facilities (arts. 26 and 18, para. 3)

224. Government policy on social security focuses on those who need the benefits most. It includes various social measures aimed at promoting the needs of the family and children. 23/ The Social Security Act makes the following provisions in relation to children:

(a) Children's allowance: as from 1974 payable to each family in respect of the first three children, and extended in 1977 to cover a fourth and subsequent births, below the age of 16 years, as well as children

over 16 years who are still attending school or who, having left school, register as unemployed. It is means-tested as from 1996. In the same year about 49,000 households applied to receive the allowance;

(b) Parental allowance: brought into effect in 1988 and consists of an extra allowance to various categories of families where parents, generally the mother, tend children below the age of 11 years and cannot because of this take up a job to upgrade the family income. In 1993 the Government paid LM 1.1 million in parental allowances to 10,500 families. This allowance is to be incorporated within the children's allowance as of 1996 and is means-tested;

(c) Family bonus: as from 1989 it is payable twice yearly to families in receipt of children's allowance. In 1993 the sum of LM 2.8 million was paid to about 53,700 families. It is also to be incorporated within the children's allowance as of 1996 and is means-tested;

(b) Disabled children's allowances: as from 1988, besides the normal children's allowance a disabled child receives through his parents an extra allowance. In 1992 the age limit was raised to 18 years provided the child was still attending an educational institution. In 1993 the number of families benefiting from the scheme was 595. This allowance is also means-tested.

225. Families and single parents 24/ earning social security benefits would be able to receive such benefits in full without any deductions for the children's allowance payable to them. Single parents who are in receipt of social assistance may derive earnings from income which, when added to the same assistance, would not exceed the national minimum wage. Social security benefits for single parents allow a woman to live independently from day one and be able to raise her children alone.

226. An orphan's allowance is payable to any person who has the care of a child of another person. A supplementary orphan's allowance is payable to children between the ages of 16 and 21 who are not gainfully occupied or whose earnings from employment are less than the minimum wage. Any person entrusted with the care and protection of abandoned children or of unknown parents will receive a children's allowance at the same rate that is payable to a parent in relation to a third child.

227. It will definitely be a step in the right direction if a foster carer allowance is introduced in the Social Security Act in order to encourage persons who would have otherwise been in receipt of a children's allowance, but for the means test, to foster care children. The allowance should not be means-tested, given the very special nature of the service, which is ongoing, short-term or long-lasting, according to circumstances. The allowance should support the programmes being undertaken towards the deinstitutionalization of children in care.

228. Maternity benefit was introduced in 1981 for women in their eighth month of pregnancy. Benefits are paid for a period of 13 weeks commencing 8 weeks prior to the birth of the child. About 5,000 women benefit annually from this allowance.

229. Married couples benefit from a higher relief of taxable income. Such relief is dependent on the number of members of the household.

230. Under the parental allowance scheme every woman who has a child below the age of 11 years in her effective custody is entitled to a weekly allowance.

231. The raison d'être of welfare benefits for families is to enable parents to supplement income where it is most needed. Financial assistance is meant to reflect the values of work and family life. It is not the aim of welfare to make it feasible for people to have children and yet forgo responsibility as parents. It should also not be the aim to provide gratuitously. If dependence on State funds is to decrease in the future, it is advisable that beneficiaries be eligible for cash benefits only if they are working or receiving job training or education. The idea is that social security assistance is temporary, to get one on in life and not as a way of life.

232. Besides financial aid, child-care services and facilities for pre-school children under five years of age and for children of any age after normal school hours are currently provided by private entities like NGOs, lay persons and religious bodies. Government's role is regulatory. But it is the intention of Government to involve itself in partnership with local councils and others, in a joint effort between public and private sectors to set up day-care centres as part of a wider service to help children and families, especially where both parents work or the family is a one-parent one. 25/ It is the intention to open child day-care centres and a pilot project is being considered that will serve as a model in this area of child care.

233. The training of carers has been going on for some time. Courses are conducted by the ETC and the Education Division. The position of private day-care centres remains unchanged in that they can engage staff at any time, according to requirements. But there is an administrative requirement that operators must give advance notice to the DFW, and other interested authorities prior to starting operations. This is the current practice until regulations become statutory. Centres may be visited by social workers to see that conditions conform to the guidelines issued by the DFW. In the near future child-care centres and childminding will be given statutory provisions. During the last two decades Government introduced a number of measures and incentives in support of female employment and the number of mothers in part-time or full-time employment has increased considerably. Coupled with the recent lowering of the age for admission to kindergarten centres, female employment has put greater demands on child-care services.

E. Standard of living (art. 27, paras. 1-3)

234. Living standards and economic welfare have improved considerably over the last few decades. The economic policy of the Government ensures that there is a standard of living sufficient to provide for one's needs and a better quality of life. At the end of 1993 the national income showed the gross national product (at market price) to be LM 975,515,000, an average per capita of LM 2,662. 26/ Real gross domestic product grew on average by 5.3 per cent annually since 1990. GDP has doubled per capita from 1986 to 1995 and rose from LM 1,491 in 1986 to LM 3,062 in 1995. During 1995 GDP

at factor cost increased by 9.1 per cent to exceed LM 933 million. For 1996 the economy is expected to grow further by about 5 per cent. Unemployment remained stable at 3.6 per cent.

235. Generally speaking one finds little evidence of absolute, as against relative poverty in Malta. The cost of living is moderate when compared with other European countries on both ends of the economic spectrum. Minimum income is guaranteed through minimum wage and social security legislation. There is collective bargaining and also consultation among the social partners for, among other things, the cost of living adjustment (COLA).

236. From an economic point of view many enjoy a good quality of life. But a substantial minority find it difficult to cope with the high standard of living. One leading sociologist gave it as his opinion that about 50 per cent of families were verging on the poverty line and have to make an effort to keep up with the trend. The effort was reflected in the long hours of work. Of the 50 per cent, 15 per cent live in relative poverty, meaning that they are below the average standard of living. It has been put forward that Malta shares with the rest of Europe an attitude of a consumer society. This exerts pressure on low-income families to aim for a consumer budget which is beyond their reach and leads to feelings of deprivation.

237. Social welfare, especially now that most grants are means-tested, help to mitigate the pressures. The tables below give an overview of payments made under children's allowance, maternity, parental/handicapped allowances and family bonus:

Table 10

Analysis of claims and payments under the Social Security Act 1987. Benefits/allowances - 1993

Month	Claims authorized				Payments			
	Children's allowance	Maternity benefits	Parental/ handicapped allowance	Family bonus	Children's allowance	Maternity benefits	Parental/ handicapped allowance	Family bonus
Jan.	52 760	427	12 039	53 943	3 631 757	20 267	317 814	1 393 371
Feb.	"	347	"	"	"	38 071	"	"
Mar.	"	416	"	"	"	23 644	"	"
Apr.	52 843	411	11 005	"	3 622 590	45 293	263 469	"
May	"	348	"	"	"	23 495	"	"
June	"	357	"	"	"	30 593	"	"
July	52 930	459	10 111	53 741	3 627 399	24 379	254 375	1 388 539
Aug.	"	384	"	"	"	32 842	"	"
Sept.	"	411	"	"	"	28 552	"	"

Month	Claims authorized				Payments			
	Children's allowance	Maternity benefits	Parental/ handicapped allowance	Family bonus	Children's allowance	Maternity benefits	Parental/ handicapped allowance	Family bonus
Oct.	52 856	462	11 091	"	3 580 872	19 989	265 512	"
Nov.	"	414	"	"	"	42 442	"	"
Dec.	"	320	"	"	"	42 209	"	"

Source: Department of Social Security.

1. Widow's benefit includes supplementary and widow's allowance.

2. Disablement gratuity includes also disablement pension.

Table 11

Families benefiting from social security benefits related to children

Number of family units	1987	1988	1989	1990	1991	1992	1993	1994	1995
A. Children's allowance	19 194	19 379	19 732	20 728	21 465	21 701	21 983	22 553	22 598
1 eligible child									
2 eligible children	18 809	19 125	19 267	19 585	19 453	19 695	19 620	19 785	19 669
3 eligible children	6 294	6 201	6 093	6 252	6 001	5 906	5 967	5 898	5 794
4 or more eligible children	1 463	3 086	2 410	2 983	2 263	2 031	2 019	1 997	1 979
B. Special allowance	1 044	1 147	959	1 027	1 129	1 323	1 284	1 046	1 117
C. Child allowance plus special allowance	2 179	1 003	1 543	1 509	1 759	1 992	1 983	1 452	1 495
D. Handicapped child allowance	-	485	569	630	689	586	594	593	604
E. Orphan's allowance	12	9	7	7	8	10	10	9	13

Table 12

Government expenditure on child benefits (LM)

	1987	1988	1989	1990	1991	1992	1993	1994	1995
Children's allowance (million)	13.8	13.997	14.107	14.4	14.4	14.5	14.5	15.6	15.5
Orphan's allowance	3 102	1 942	1 604	1 640	4 08[illegible]	6 510	7 751	7 020	12 100
Disabled child allowance	-	53 698	80 262	84 003	87 990	94 923	93 307	102 899	104 413

238. It is also the policy of Government to find alternative forms of care: children's homes run by (mostly religious) organizations, family home care for disabled children, free tuition and books, dental care and aids to children with hearing impairment. In the allocation of housing, single parent applicants are given preference.

VII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES

A. Education, including vocational training and guidance (art. 28)

239. Education is the only right to which the Convention devotes more than one article, presumably to underline the importance that is attached to it.

240. By the Declaration of Principles of the Constitution of Malta, the State is bound to:

(a) Provide compulsory primary education, free of charge, in State schools (this includes free textbooks and transport for primary and secondary schools);

(b) Provide scholarships and financial assistance to ensure that students attain the highest level of education;

(c) Develop culture and scientific and technological research; and

(d) Develop professional and vocational training, especially in respect of persons with disabilities.

241. By way of elaborating the principles on education mentioned in the Constitution, the Education Act of 1988 (Act XXIV) postulates at the very outset (arts. 1 and 4) that "It is the right of every citizen of the Republic of Malta to receive education and instruction without any distinction of age, sex, belief or economic means," and "It is the right of every parent of a minor to give his decision with regard to any matter concerning the education which the minor is to receive." Consequently the Act further provides that the State is bound to:

(a) Provide education to all children between 5 and 16 years of age; 27/

(b) Promote education and instruction;

(c) Ensure the existence of a system of schools and instruction accessible to all Maltese and which aims at the full development of the whole personality, including the ability of every person to work; and

(d) Provide for such schools and instruction where they do not exist.

242. In Malta there are both State and private institutions of learning. At the end of 1993 the number of primary and secondary schools in Malta was 316: 205 in the State and 111 in the private sector. There were 6,321 teachers 28/ and 96,500 pupils from 5 to 16 years old. 29/ An overview of schools is as follows:

All	316
Private	111
Nursery	43
Primary	8
Nursery/primary	18
Secondary	9
Primary/secondary	7
Nursery/primary/secondary	8
Others	18
State	205
Primary (plus kindergarten)	81
Secondary schools	42
Post-secondary school	21
Trade schools (boys and girls)	21
Special schools	8
Others	32

243. The Education Division also has an occupational and career information programme to give assistance to students and young people the opportunity to choose and pursue a career of their choice. Vocational training and guidance are also available. A programme designed to ensure the best information possible about available career opportunities is offered to all 16-year-olds. The programme includes career guidance, career conferences, a permanent exhibition showing entry requirements into a variety of jobs and courses leading to a career, visits to colleges and places of work of the students' choice, a career convention organized every other year with the aim of bringing together employers, trainers and prospective employees, and to advertise courses and career opportunities, and an information pack about available post-secondary courses.

244. For children with psychosocial difficulties the Education Division has an Education Welfare Unit run by social workers to support them. The Unit also monitors absenteeism from schools. It is known that absenteeism is increasing, with children nearing school-leaving age being so eager to find employment that they will do everything they can to be exempted from attending school. The problem is further exacerbated where children of this age are suspended indefinitely from attending school.

245. The Unit seeks primarily to carry out multidisciplinary teamwork, give support to parents, children and teachers and maintain links between home and

school, enforce tasks in relation to school attendance and employment. During the summer of 1996 members of the Unit worked with secondary school students in classes 1, 3 and 4 "to make school more attractive especially to regular absentees, providing such students with support and understanding and to assist in integrating persons with disabilities through sport".

246. Another unit, the Guidance and Counselling Services (GCS) in Floriana, provides counselling and career guidance in secondary schools, and coaches teachers and parents in parenting skills courses following requests by heads of schools, school councils and others.

247. The Schoolgirl Mothers' Unit of the Education Division in Floriana offers practical advice on childcare and parenting skills, support and counselling to pregnant schoolgirls. Initially the girls stay at school and some even go on to sit public examinations successfully. Then they leave to have the baby. The Unit issues from time to time guidelines for school heads, guidance teachers and others involved in supporting pregnant schoolgirls.

248. Bullying in schools is another problem that has of late become prominent following research and a report on the subject by a school psychologist. 30/ The Education Division had already taken measures to control bullying in schools, including emphasis on tolerance and solidarity among students, assertiveness, skills for dealing with bullying, and discipline.

249. Information technology has been introduced at all levels of education from primary schools upwards. This will help students, especially the younger generation, to grow up familiar with the latest developments at school and eventually in employment.

250. The Education Division has its own Drama Unit for primary schoolchildren. It has been performing since 1985, combining entertainment with education. Choosing casts is in itself a part of the educational exercise. Child actors who lack motivation find drama a boost to self-confidence and self-esteem. They find it easier to change their attitude to schooling after a stage experience. Communication skills increase and there is better adaptation to new environments and shedding of inhibitions. According to the Drama Unit chief the benefits include the development of personality, self-exploration, self-awareness and interest in society. Members of the Unit normally work in groups of three among Form III students in 21 schools. The aim is to perform to three classes at every school. The programme is meant to reach secondary school in the immediate future.

251. The Faculty of Education offers courses in teacher training, the Institute for Health Care trains nurses, therapists and others, the Institute for Child Development trains personnel involved with disabled children, and the Institute for Social Welfare trains social workers. Higher education is accessible to all through a grants system.

252. The following two tables give statistical data on the number of students in educational institutions, the number of educational institutions, and teaching staff for the period 1984 to 1992.

Table 13

Students in educational institutions, by level, 1985/86-1992/93

Year	1985/86	1986/87	1987/88	1988/89	1989/90	1990/91	1991/92	1992/93
All students	80 459	81 750	83 275	87 482	89 882	91 759	94 298	96 500
A. Full-time education	74 547	75 750	76 556	81 189	83 335	84 538	86 019	87 816
1. Government institutions	53 550	54 430	54 907	59 069	60 924	61 939	62 842	63 911
1.1 Preschool level	3 474	3 665	3 572	6 558	6 913	7 060	7 484	7 578
1.2 First level a/	26 341	26 324	26 399	26 430	26 400	26 142	24 526	24 166
1.3 Second level:								
general	12 978	12 756	136 085	14 112	14 856	15 591	171 235	17 214
vocational	5 361	5 590	363	5 691	5 822	5 438	160	4 866
1.4 Post secondary								
general	17 701	17 222	192 821	20 872	23 271	24 691	259 019	27 882
vocational	708	487	99	114	681	712	33	211
1.5 Third level	1 474	1 449	1 447	1 682	2 510	3 123	3 602	4 662
1.6 Special education	444	437	391	395	414	404	424	426
2. Private institutions	20 997	21 320	21 649	22 120	22 411	22 599	23 177	23 905
2.1 Preschool level	4 425	4 552	4 679	4 764	4 387	4 253	4 286	4 447
2.2 First level	9 899	9 998	10 165	10 296	10 616	10 757	11 100	11 322
2.3 Second level general	6 217	6 373	6 443	6 695	6 982	7 190	7 339	7 526
2.4 Post secondary (general)	456	397	362	365	426	398	452	610
B. Part-time evening education	5 912	6 000	6 719	6 293	6 547	7 221	8 279	8 684
1. Government institutions	5 420	5 251	4 302	3 864	4 628	4 946	6 374	6 419
1.1 School of Arts	351	373	308	160	268	351	389	415
1.2 School of Music	1 703	1 801	1 453	1 167	1 747	1 731	1 759	1 565
1.3 Arts and Design Centre	18	145	103	73	25	33	b/	b/
1.4 Academy of Dramatic Arts	-	-	-	78	75	70	98	154
1.5 Evening classes centres	3 348	2 926	2 438	2 386	2 513	2 761	4 128	4 285

Year	1985/86	1986/87	1987/88	1988/89	1989/90	1990/91	1991/92	1992/93
2. Private institutions								
2.1 Evening classes centres	492	749	2 417	2 429	1 919	2 275	1 905	2 265

a/ Data from 1991/92 onwards excludes opportunity centres; these were combined with secondary schools.

b/ Data included with post-secondary vocational.

Table 14

Number of institutions in the educational system, 1985/86-1992/93

Year	1985/86	1986/87	1987/88	1988/89	1989/90	1990/91	1991/92	1992/93
All institutions	273	275	287	318	322	329	326	316
A. Government	183	181	182	199	205	210	214	205
Kindergarten centres	3	3	4	4	4	4	4	4
Primary (including kindergarten) a/	85	83	83	86	87	87	82	81
Secondary and opportunity centres	40	37	37	35	33	34	38	42
Technical institutes	4	4	4	4	7	7	7	7
Trade schools	20	22	22	23	25	24	24	21
Schools for special education	8	8	8	8	8	8	8	8
Schools for secretarial studies	1	2	2	b/	b/	b/	b/	b/
Institute of Tourism Studies	1	1	1	1	1	1	1	1
School of nursing	1	1	1	1	1	1	c/	c/
School of music	1	1	1	1	2	2	2	2
School of arts	1	1	1	1	1	2	2	2
Art and Design Centre	1	1	1	1	1	1	1	1
Building trade school	1	1	1	2	d/	d/	d/	d/
Agriculture training centres	2	2	2	2	d/	d/	d/	d/
Precision Engineering Centre	-	-	-	1	1	1	1	1
Heavy plant section	-	-	-	1	1	1	1	1
Hairdressing school	-	-	-	1	d/	d/	d/	d/

Year	1985/86	1986/87	1987/88	1988/89	1989/90	1990/91	1991/92	1992/93
Academy of Dramatic Arts	-	-	-	1	1	1	2	2
Evening classes centres	13	13	13	25	31	35	40	31
The University	1	1	1	1	1	1	1	1
B. Private	90	94	105	119	117	119	112	111
Nursery schools	43	47	50	57	49	48	45	43
Primary schools	4	5	4	4	5	8	8	8
Secondary schools	3	3	3	3	4	9	8	9
Nursery/primary schools	15	14	15	18	20	18	17	18
Primary/secondary schools	10	12	11	12	9	8	7	7
Nursery/primary/secondary schools	8	6	7	7	8	7	9	8
Evening classes centres	7	7	15	18	22	21	18	18

Source: Annual Abstract of Statistics, 1993.

a/ Data from 1991/92 onwards excludes opportunity centres; these centres were combined with secondary schools.

b/ Data included with secondary schools.

c/ The school for nurses was absorbed by the University under the Institute of Health Care.

d/ From 1989/90 onwards data are being included with technical/trade schools.

253. From 1987 to 1996 LM 390 million would have been invested in education. For 1996 the Government will be spending LM 58 million or 12.8 per cent of a total recurrent expenditure of LM 453 million on education. This will include payment of stipends to university students whose number is expected to rise by 600 to a total of more than 7,000 over the next few years. This represents 2 per cent of the total population.

254. For the majority of Maltese children streaming is a fact of life: all children in government schools (two thirds of the total Maltese population in primary and secondary schools) are streamed according to examination scores from Year 5 primary to the end of secondary school. The situation in Church and private schools differs to some extent, though there are Church secondary schools which take only the top scorers in examinations.

255. Before the age of five children may attend State, Church or private kindergartens, private day nurseries, day-care centres and play schools. About 10,000-12,000 children between three and five years of age (i.e. 96 per cent of total) attend kindergarten, 37 per cent of which are private.

256. Normal unstreamed classes generally have one or two mentally backward, dyslexic or maladjusted children. There is a proposition that mentally handicapped children be included in the mainstream in primary classes. Currently, 45 per cent of disabled children are in mainstream education (see also paragraph 204 above).

257. Sixty-six per cent of secondary schoolchildren carry on with their studies beyond the stipulated compulsory school attending age of 16; 20 per cent go on to tertiary education.

258. In 1995 the Junior College was set up under the auspices of the University to take students from 15/16 years of age. Curricula include new methods of learning meant to facilitate the transition from secondary to tertiary education.

259. Enrolment at the University, which was founded in 1592, stands at approximately 19 per cent of the 15-19 age group. This marks a sharp increase in the number of entrants to university and it is expected to further increase in the coming years to a level of 25 per cent. The following gives the figures over a span of 31 selected years by sex and population:

Year	Total	Males	Females
1962	261	240	21
1972	1 332	919	413
1982	1 234	961	273
1988	2 032	1 272	760
1989	2 791	1 665	1 126
1990	3 173	1 823	1 350
1991	3 470	1 855	1 615
1992	4 155	2 146	2 009
1993	4 961	2 473	2 488

Source: Admission's Office, University of Malta.

260. It is the Government's intention to further decentralize educational structures at both administrative and curricular levels. The aim is to give schools greater autonomy so that they can concentrate on improving standards. Such objectives are to be realized by providing in-service courses for teachers, heads of school and other personnel. In 1994 the Ministry of Education set up an advisory group with terms of reference encompassing these objectives. The terms of reference of the group were the following:

(a) To review and evaluate the educational policies currently being followed at primary and secondary levels of education;

(b) To identify and prioritize those educational issues which most need to be addressed;

(c) To recommend what remedial action should be taken in those areas identified as deserving priority attention;

(d) To orient further developments and reform of the education system for the next decade; and

(e) To recommend what types of structure would be needed to oversee and monitor agreed planned programmes of development and reform.

261. As for the schools of tomorrow and the development of effective learning cultures, in 1995 the Ministry of Education issued a report of the Consultative Committee on Education which reviews and evaluates current educational policies and the policy for the immediate future.

B. Aims of education (art. 29)

262. The aims of education include insights into the human condition, the cultivation of values and the love for learning. On the individual level it aims to enhance the quality of life and to offer prospects for better living by developing the individual mind to possible limits of achievement. This applies to all persons but especially those most in need, the disabled and the disadvantaged.

263. One consideration is whether the educational system is geared to making the younger generation capable of facing up to change, straddled as it is between the old and the new centuries. In a rapidly changing world one wonders whether the children of today, as they grow up, or their children after them, will continue to need to use a pen, open books, use coins or paper money, or even wander in the countryside. On the one hand, there have been vast improvements in the sphere of tertiary education and its accessibility to whoever is capable; on the other, the introduction of the world of informatics to children at the earliest possible age is most welcome. What needs to be addressed is teaching: the manner in which it is carried out, the degree of professionalism, and whether it is student-centred. Perhaps Malta is special in that the number of pupils who are "privately" tutored outside normal schooling hours in preparation for school-leaving certificate examinations is high. This system may call into question whether free education for students is actually being provided. It also raises the question whether education is measured merely by the number of subjects passed at public examinations or whether it is a preparation for life. Vocational training, extracurricular activities and sports need to be given greater emphasis. More importantly, schools have to account for their performance. One way of doing this is by reintroducing inspection of classes and teaching methods to ensure that the syllabus is covered during normal school hours. Plans are in hand for remedial action to be taken in this regard.

264. The Ministry of Education and National Culture has announced sweeping changes in the national curriculum which are expected to make education more relevant to modern demands and to what is going on outside schools, especially in industry and modern technology. Curriculum reform should occur at all levels of education. The problem does not lie with the students but with the educational system. Students can reproduce what they learn from books but

even top students encounter problems when asked to apply that knowledge to everyday life. Perhaps a simpler, more straightforward and student-centred examination system has to be developed.

265. Teachers have a code of ethics to guide them in their relationship with students. The basic norms include:

(a) Giving foremost consideration to the student's well-being;

(b) Directing his/her whole professional effort to assisting the student to develop his/her whole personality, including the ability to work;

(c) Acting, and to be seen to be acting, with justice;

(d) Exercising authority in accordance with the law and with evolving concepts of the student's needs and rights;

(e) Recognizing that each child is an individual and that children can differ in what is required for the promotion of their education;

(f) Refraining from using professional relationships with students for private (financial) advantage.

C. Leisure, recreation and cultural activities (art. 31)

266. The Ministry for Sport organizes sporting activities for students during and outside school hours. Practically all major sporting activities are included, from football and basketball to athletics and aquatic sports. Physical education (PE) classes within primary and secondary school curricula promote sports and physical fitness in schools. A major contribution comes from voluntary organizations. It is largely through their unstinting efforts that sports nurseries are cultivated and sustained. It is also to their credit that during weekends children have a whole range of sporting activities to choose from. 31/

267. Recreational and cultural activities fall within the domain of school curricula or NGO programmes on the local level. Children are encouraged to organize and participate in the performing and the visual arts. There are three separate schools for drama, music and the arts for children who wish to further pursue their activities, or careers, in these areas.

268. Entertainment for groups between 16 and 18 years, like discos, is organized generally by young people themselves. At that age they are discouraged from attending places of entertainment that are proper to adults. According to 1995 regulations from the Home Ministry, children below 16 cannot be allowed into discos. Licencees in breach of this rule risk having their licence withdrawn.

269. Malta is steeped in archaeological and ancient history. Suffice it to say that the free-standing monoliths at the neolithic temples of Hagar Qim and Mnajdra are the oldest of their kind anywhere. Added to them are historical sites of immense cultural value. It is normal practice for schools to take

students on cultural visits to these and other places of interest. No detailed statistics are available but the data in the table below for 1990 to 1993 gives an idea of localities and attendance.

Table 15

Visits to cultural sites, 1990-1993

Sites	1990		1991		1992		1993	
	On payment	Free*	On payment	Free*	On payment	Free*	On payment	Free*
National Museum of Archaeology	30 577	3 470	26 359	4 202	28 137	5 160	76 254	26 329
Natural Museum of Fine Arts	15 492	1 608	11 129	1 861	10 726	912	13 432	6 819
Palace Armoury	49 352	4 774	47 976	3 694	52 990	4 413	70 505	38 855
Museum of Roman Antiques	17 685	8 795	13 420	8 499	14 339	6 512	56 030	16 738
St. Paul's Catacombs	37 546	7 453	31 330	8 331	31 279	3 474	85 779	21 174
Museum of Natural history	21 415	10 620	16 557	10 246	19 319	13 393	12 215	21 540
Hal Saflieni Hypogeum	33 468	3 984	-	-	-	-	-	-
Tarxien Megalithic Temples	29 059	7 037	26 132	9 101	25 868	5 613	90 496	38 842
Ghar Dalam Cave and Museum	15 940	5 734	14 552	8 914	14 721	7 737	65 619	35 109
San Paul Milqi	6	54	473	547	372	1 221	910	1 548
Inquistor's Palace and Folklore Museum-Vittoriosa	4 363	2 244	4 175	2 866	5 809	3 085	11 448	9 940
Hagar Qim-Megalithic Temples	25 940	2 987	26 275	4 685	29 566	2 733	57 699	25 799
Museum of Archaeology-Gozo	9 488	4 029	13 290	3 726	12 977	3 359	12 623	4 918
Ggantija Temples-Gozo	52 567	29 155	80 873	14 474	91 030	11 193	193 184	20 465
Visitors in groups	419 850	-	36 659	-	341 570	-	2 015	-
State rooms and Tapestry Chamber	27 122	1 376	25 300	4 195	31 300	4 310	108 851	1 852
War Museum	41 729	4 797	49 622	7 597	38 776	6 786	49 760	33 250
Museum of Natural Sciences - Gozo	640	950	156	284	3 316	2 011	1 645	3 331
Museum of Folklore-Gozo	12 687	4 808	16 035	4 893	14 840	4 871	11 174	7 921

Sites	1990		1991		1992		1993	
Windmill - Gozo	-	-	-	-	2 013	1 526	7 882	5 463
Maritime Museum	-	-	-	-	3 108	3 128	8 626	14 750

* "Free" indicates visits free of charge for educational purposes.

Source: Museum Department.

270. In 1995 the Planning Authority, the body that regulates land development and construction and the conservation of buildings, launched on a pilot basis an environmental education project among schoolchildren to make them more aware of the national cultural and natural heritage. Some 350 children from 12 schools participated. The project continued in 1996 and about 600 children from 20 schools, 17 State and 3 private, would have made about 10 visits, up to February 1997, to towns like medieval Vittoriosa and its Provence de France, Kalkara, Delimara and Marsascala. Both the Education Division and Fondazzjoni Wirt Artna are participating. During the visits students are encouraged to look at possible conflicting land and sea uses and even try to recommend solutions.

271. The Girl Guides and Boy Scouts Associations have long been established in Malta. Schoolchildren also participate in the President's Award and in the Pope John XXIII Award of the Peace Laboratory of Malta for kindness among peers at school.

Broadcasting

272. Educational broadcasting for children, has come a long way since its humble beginnings in the 1960s. In 1992, radio educational broadcasting averaged 3.93 weekly hours or 3.30 per cent of total time; on television the average was 10.78 weekly hours or 16.37 per cent of total broadcasting time, and ranged from cartoons (9.37 per cent) and informative and educational programmes (3.05 per cent) to Media Education Centre (1.06 per cent) and others (2.89 per cent). In 1993, the corresponding weekly figures were 6.6 hours (.5 per cent) for radio and 9.4 hours (12.8 per cent) for television.

273. Education 22 started to operate in September 1996. It marked the formal entry of educational broadcasting into the mainstream of television programmes, to make televised educational material accessible, not only to children but to the public at large. Educational broadcasting is at a par with that of other European States.

VIII. SPECIAL PROTECTION MEASURES

A. Children in situations of emergency

1. Refugee children (art. 22)

274. The position in Malta is regulated by the Immigration Act of 1970. Under that law the principal immigration officer may grant leave to land and to remain in Malta (for three months unless a shorter or longer period is specified) to any person arriving in Malta (sect. 6).

275. Malta is a party to the 1951 Convention relating to the Status of Refugees. It has reserved in favour of asylum seekers from Europe, but has never refused temporary asylum to refugees coming from outside Europe. Malta's physical limitations and population level density must have been a primary consideration. Malta relies on humanitarian principles to enable some 700 refugees to live comfortably until a new home is found for them. The majority come from the Islamic Republic of Iran, Somalia, the Sudan and the countries of the former Yugoslavia. In 1992 an Albanian ship full of refugees dropped anchor off Malta, and in January 1996, a group of 62 Sudanese, including 12 women and 20 young children, arrived in Malta after being expelled from northern African country and wanted to remain here.

276. Children will be granted leave of stay according to the Immigration Act and will be accorded refugee status independently of whether they are accompanied by their parents. Provided their number is reasonable, refugees do not pose special problems apart from humanitarian distress and their personal suffering. They are given free medical services and the children get free schooling. Accommodation and subsistence to destitute refugees is handled by the competent officials, voluntary bodies, families, and the administrators of children's homes and other institutions.

277. The Emigrants Commission leads and coordinates services for the care of refugees, and arranges with the authorities, both local and abroad, for the duration of their stay and eventual relocation to a foreign destination or repatriation. It complains, however, that, on the one hand, refugees are put on the same footing as immigrants when it comes to law enforcement and, on the other, they are discriminated against and refused work permits normally given to aliens. Therefore, they may be compelled to work clandestinely, with no entitlement to vacation or sick leave and no insurance coverage if anything happens to them or their families. The Government has two alternatives: to issue persons with refugee status with a corresponding temporary work permit or to apply existing work permit procedures that grant permits where corresponding qualified or skilled local personnel is lacking.

278. In December 1996, a Refugee Helpline was set up by the Christian Life Community (CLC), in collaboration with the Jesuit Refugee Service, to assist refugees on a local level. Professional services include medical, counselling and social work. On a less formal basis CLC members plan to help refugees by, amongst other things, giving private lessons, baby-sitting, and writing and translating letters.

279. If Malta were to revise its refugee policy, it would, among other things, preclude asylum seekers from ending up as illegal immigrants with the risk of their being issued with removal orders. It would also provide a legal framework for national organizational structure and to humanitarian activities and initiatives. It would also have to provide for freedom of movement, employment opportunities, free health care and education for children on a more stable basis. All this and more could be included in a new law exclusively on refugees. 32/

2. Children in armed conflicts (art. 38), including physical and psychological recovery and social reintegration (art. 39)

280. Malta has ratified the Geneva Conventions of 12 August 1949, and the Additional Protocols to the Geneva Conventions of 1977. It abides by international humanitarian law with regard to soldiers in combat, prisoners of war and civilians, including children. It will take all measures and cooperate with other States to protect the interests of civilians, during hostilities.

281. The age limit for enlistment in the armed forces of Malta is 18 years.

B. Children in conflict with the law

1. The administration of juvenile justice (art. 40)

282. The declaratory principles enunciated in paragraph 1 of article 40 of the Convention and the legal norms that follow in the same article by way of putting these principles into practice reflect the position of Maltese law in respect of the person in general, and the child in particular, where criminal proceedings are involved that, amongst others, affect human rights and the rights of the child respectively. In criminal proceedings relating to children the position at law in Malta is that children, if they are under 16 years, may be tried either by the Juvenile Court, if the offence falls within the competence of the Court of Magistrates of Criminal Judicature, or, failing that, by the Criminal Court. If the child is charged jointly with any other person not being a child, the Juvenile Court would cease to be competent. If the child is over 16 years criminal proceedings obtaining for 18-year-olds and over would apply in his/her regard.

283. Maltese law ensures that the requirements of paragraph 2 of article 40 are complied with. For ease of reference, the details below give areas of congruence between the two systems of law. They are not exhaustive but generally include the basic norms.

Convention article 40	Maltese law	Section(s)
para. 2 (a)	Constitution	39 (8)
2 (b) (i)	"	39 (5)
2 (b) (ii)	"	39 (6) a, b, c

Convention article 40	Maltese law	Section(s)
2 (b) (iii)	"	39 (1)
2 (b) (iv)	"	39 (10)
	Criminal Code	458, 459, 634, 643, 646
	Code of Organization and Civil Procedure	579
2 (b) (v)	Criminal Code	498
2 (b) (vi)	Constitution	39 (6) (e)
	Criminal Code	391, 452
2 (b) (vii)	Criminal Code	517, 518, 531
	Juvenile Court Act	7, 9, 10

2. Children deprived of their liberty, including any form of detention, imprisonment or placement in custodial settings (art. 37 (b), (c) and (d))

284. This article deals mainly with the child's deprivation of liberty and attendant remedies and measures to ensure the dignity of the person of the child. No person, let alone a child, can be arrested and unlawfully and arbitrarily detained, unless it be for a valid reason upon reasonable suspicion according to the law of the Constitution and the Criminal Code. One such reason in the case of a child (i.e. a person under 18 years of age) is that he or she may be "deprived of personal liberty" for the purpose of his/her education or welfare (Constitution, 34 (1) (g)). If it be for the purpose of bringing the person of the child before a court in execution of its order or upon reasonable suspicion of his/her having committed, or being about to commit, a criminal offence, detention cannot exceed 48 hours.

285. The Code of Practice of the Police Force for the interrogation of arrested persons lays down that, as far as possible, with regard to persons under 16 the interrogation (or interview) is to take place in the presence of one of their parents or tutor or another person who is not a police officer. The person should be of the same sex as the person being interrogated. Youths and children attending school or other educational institution should not, as far as possible, be arrested or interrogated at school. The Code came into effect on 1 April 1996.

286. Prison regulations lay down that the Director of Prisons shall forthwith inform the Minister of Justice of any case in which a person has been detained or kept under arrest in prison for more than 48 hours without being brought before a court. The Director shall also forthwith inform the Minister of any case in which a person under 18 years of age is admitted to prison (Prison Regulations, sect. 4). In allocating prisoners to different prisons, or to

different sections or divisions of a prison, or to different prison regimes, due account shall be taken of their judicial and legal situation and due distinction shall be made between, inter alia, prisoners under 21 years of age and prisoners over that age. Prisoners under 21 years of age shall be kept under conditions which take account of the needs of their age and protect them from harmful influences (sect. 12). Full reports shall be compiled and relevant information shall be collected about the personal situation of a prisoner, including his family life and his educational background, and a training programme for each prisoner shall also be drawn up (sect. 11). Prisoners are encouraged to establish and maintain relations with their families, persons and organizations outside prison as may best promote their interests (sect. 50). Prisoners are entitled to receive letters and have visits.

287. In the generality of cases, and especially where a first offence is committed or the offender is a young person, if the sentence is of imprisonment for a term of not more than two years the court may order that the sentence be suspended for a period specified in the order (Criminal Code, sect. 28 A). Under the Probation of Offenders Act of 1961, where an offence is punishable with imprisonment for a term exceeding 10 years, a court may make a probation order requiring the offender to be under the supervision of a probation officer. Regard is always had to the circumstances, the nature of the offence and the character of the offender (sect. 5). Where circumstances permit, a court shall appoint a probation officer experienced in dealing with children or young persons to supervise an offender who is under the age of 16 years (sect. 6). The court may also for the same reasons absolutely or conditionally discharge the offender.

288. Where a sentence of more than six months' imprisonment is suspended, a court may, in addition, make a suspended sentence supervision order and place the offender under the supervision of a supervising officer who shall be a probation officer for a period specified in the order.

289. Under a new programme called Spark, planned to start early in 1997, young drug addicts and young alcoholics will be placed under a probation order rather than jailed and will follow a rehabilitation course. The age of the youths taking part will vary from 14 to 21 years. The probation period will be closely linked to a three-month non-residential programme run by Sedqa (see below) aimed at confidence-building and self-esteem. There is no need to change the law in order to implement the new programme.

290. The Socio-legal Unit within the Department of Family Welfare also deals with what are called "police cases": cases involving petty offences by young people under age are brought to the notice of the Unit by the Executive Police. Rather than prosecute, the latter liaise with social workers of the Unit who give the offenders the support required. Over the years this method has been found to rehabilitate and deter young people from further criminal activities. The Unit is responsible for case-work with young offenders, technical support to the Juvenile Court Chairman, and for maintaining a statistical database on young persons in conflict with the law as are referred to the Unit as well as those appearing before the Juvenile Court.

3. The sentencing of juveniles, in particular the prohibition of capital punishment and life imprisonment (art. 37 (a))

291. As has already been observed criminal proceedings affecting children and young persons under the age of 16 years are regulated by the Juvenile Court Act of 1980. This court has the competence of a court of magistrates as a court of inquiry and of judicature. But the judge is assisted by two members (one male and one female) qualified for dealing with children and young people. During proceedings, members of the public are excluded, reporting is controlled and the identity of the offender is not revealed. Children or young persons who are not accompanied by parents or relatives are not permitted to be present during the proceedings. Sentencing is similar to that obtaining at other courts depending on the gravity of the offence and the age of the offender.

292. The court prefers to use non-custodial measures such as community-based correctional methods (e.g. probation, conditional discharge, fines, absolute discharge combined with a reprimand or admonition). Suspended sentences and probation orders which incorporate restitution and compensation measures are becoming more common. Magistrates and judges are increasingly using a section in the Criminal Code which specifies that an offender should comply with any conditions that a judge or magistrate defines as a prerequisite for a probation order, to issue a sentence which includes victim/offender reconciliation.

293. There is no capital punishment in Malta under the Criminal Code.

294. Criminal proceedings against children under 9 years of age are not pursued. Children are exempt from criminal responsibility for any act or omission (Criminal Code, sect. 35). Children under 14 years of age are also exempt from criminal responsibility for any act or omission done without mischievous intent. The court may, however, bind over the parents to watch over the conduct of the child. If the offence is punishable with a fine, the court may order the parents to pay the fine (sect. 35). Children under the age of 14 but over the age of 9 who commit an offence with mischievous intent are punished with reprimand or a fine (sect. 36). If the offender is 14 but not yet 18 years of age the punishment applicable to the offence shall be diminished by one or two degrees (sect. 37). A sentence of life imprisonment for a child is not known to have ever been passed and at law it may always be circumvented.

295. Special rules also apply for children who are deaf-mutes. They are exempt from any punishment if they are under 14 years of age. Children who are over 14 years are likewise exempt if they act without mischievous intent. If they so act between the ages of 14 and 18 the provisions of sections 36 and 37 apply.

296. In 1994, 217 young persons appeared before the Juvenile Court, 191 (88 per cent) of whom were males. Of the 217 cases, 57 were new ones. The number of young early offenders appearing before the Juvenile Court and other courts is increasing. Currently there is no proper residential rehabilitation centre for these offenders. 33/ Young persons convicted of serious crimes are imprisoned while others are given a non-custodial sentence.

297. Offences by young persons include attempted car thefts and damage, thefts from house break-ins, theft by snatching belongings of passers-by, sale of stolen goods, dangerous driving without a licence, physically attacking or injuring others, breaking the conditions of a probation order or a conditional release, swearing in public, rape and indecent assault. The following are related statistics from the Socio-legal Unit of DFW for the period 1986-1995.

Table 16

Juvenile court cases followed up by DFW social workers, 1986-1995

Year	Males	Females	Total	Young offenders appearing before the Valletta law courts 1986-1991 (both sexes)
1986	5	9	14	20
1987	12	3	15	14
1988	16	1	17	28
1989	21	5	26	32
1990	29	2	31	20
1991	44	3	47	16
1992	35	3	38	nil
1993	60	5	65	nil
1994	54	5	59	nil
1995	46	6	52	nil
Total	322	42	364	209

Table 17

Young offenders appearing before the Juvenile Court in 1994

Month	Old cases	New cases	Boys	Girls	Total
January	13	2	13	2	15
February	20	2	20	2	22
March	28	10	31	7	38
April	13	3	13	3	16
May	10	3	12	1	13
June	8	4	7	5	12

Month	Old cases	New cases	Boys	Girls	Total
July	8	4	12	nil	12
August	1	nil	1	nil	1
September	12	15	25	2	27
October	20	4	22	2	24
November	9	2	11	nil	11
December	18	8	24	2	26
Total	160	57	191	26	217

4. Physical and psychological recovery and social reintegration (art. 39)

298. Of the offences against children mentioned in article 39 of the Convention, Malta guards mainly against neglect and abuse. State organs, NGOs and other voluntary bodies keep watch over situations where children may be neglected or abused, and the courts impose stiff sanctions where allegations of abuse are substantiated.

299. The Government employs social workers at the Education and Social Services Divisions to monitor and report cases. There are also Child Protection Units under the auspices of Government or of voluntary bodies to care and provide for neglected or abused children, especially where the latter are the subjects of a care order or an order of a court.

C. Children in situations of exploitation, including physical and psychological recovery and social reintegration

1. Economic exploitation, including child labour (art. 32)

300. Child labour is prohibited under both the Constitution and the Education Act (sect. 43). Young people between 16 years (which is the maximum age for compulsory school attendance) and 18 years of age are generally engaged on a contract of service or on an agreement of apprenticeship. At law the latter does not constitute a contract of service. A contract of service is one which binds a person to render labour to an employer in return for wages (Conditions of Employment (Regulations) Act (CERA) 1952, sect. 2). The minimum age for admission to employment is 16 years. Contracts of service are strictly regulated by CERA. The law provides, inter alia, for wages regulation, hours and conditions of work and records of employees inclusive of name, address, sex and date of birth, protection of wages, engagement and termination of employment.

301. Regulations on the Protection of Young Persons lay down that children under 15 cannot be employed, on contract or otherwise. The same applies to young persons of compulsory school age, unless such employment is covered by an exemption issued under the Education Act. Where young persons aged

between 15 and 18 are employed, provided an exemption is granted, regulations require that these persons are to be properly trained for the work assigned, and that health and safety hazards be taken into account. Young persons cannot be employed at any time between 10 p.m. and 7 a.m. This does not apply in respect of approved training schemes or apprenticeships or educational, cultural or sports activities. The Regulations do not apply to hotels or catering establishments, provided the young worker is allowed not less than 12 consecutive hours' rest within any period of 24 hours, and not less than 2 days' rest each week, including a Sunday.

302. Regulations made under the Occupational Health and Safety (Promotion) Act of 1994 and issued by Legal Notice No. 71 of 1996, with effect as of 1 October 1995, protect pregnant women and therefore the unborn child. Employers are to assess the nature, degree and duration of any hazard at the workplace before assigning work to pregnant women. And under no circumstances should pregnant women be required to perform duties which expose them to risk from chemical, physical or biological hazards. According to the regulations, no pregnant woman or mother is required to perform night work if the woman concerned submits a medical certificate stating that night work could have harmful effects on the pregnancy, the mother or the unborn child. Moreover, an employer cannot assign night work to a woman from 8 weeks before delivery to 13 weeks after delivery. Women are entitled to time off without loss of pay or any other benefit in order to attend antenatal examinations if these have to be held during working hours.

303. The Government keeps records of all employed persons aged between 16 and 18 years classified by their occupation, gender and full-time or part-time job according to the ILO standard ISCO-88. Jobs come in all types and to suit very mixed abilities. In 1995 there were 2,211 males and 2,497 females in this category in full-time employment; in February 1996, there were 3,712 males and 4,002 females while 644 males and 579 females were employed part time. The most common job categories were labourer (967 males and 121 females), apprentices (374 and 39), machine operators and assemblers (337 and 1,042) and student workers (319 and 365). For the full details see appendix A to the report.*

304. It is not unknown that cases of child labour do occur, especially in relation to specific jobs like general repair work and catering, the latter mostly within family concerns and during the summer months, with tourism being one of Malta's major service industries. The question of child labour was also raised lately in a national report to the effect that the local labour market included child labour. 34/ This is another form of child abuse. Official figures are not available but the practice is not widespread. The problem, as with other similar issues, is one of enforcement. It was reported that inspectors were finding it a problem to check such abuses.

2. Drug abuse (art. 33)

305. It was reported recently that about 3,000 families had a member with a drug problem and 800 families went through family breakdown because of

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* Available for consultation with the Secretariat.

alcoholism. The incidence of drug abuse by children under 14 years is rare, if it exists at all. Young people of 14 years and over are known to experiment with illicit drugs. For January-November 1995, there were 4 arrests and no arraignments for the 10-14 age group, whilst there were 92 arrests (73 males/19 females) and 61 arraignments (50 males/ 11 females) for the 15-19 age group.

306. By comparison, the number of children and young persons attending treatment is relatively low. Statistics from SEDQA, the national agency against drug and alcohol abuse, show the following for the period November 1994-December 1995:

(a) In the period November 1994-October 1995, 55 persons aged 15-19 (47 males and 8 females) consulted the Drug Community Service;

(b) In the period January 1994-December 1995, 27 persons aged 14-18 (21 males and 6 females) were treated at the Drug Detox Centre as outpatients;

(c) In the period December 1994-December 1995, 10 persons aged 15-19 (8 males and 2 females) attended the Drug Detox Centre In-Patient Programme;

(d) In the period April-December 1995, 4 males aged 15-19 were treated at the Rehabilitation Unit of Komunita' Sta Marija;

(e) In the period January-November 1995, 9 males aged 15-19 were admitted to Mount Carmel Hospital with a drug problem.

307. SEDQA operates the Drug Community Service, the Detox Out-Patient and In-Patient Centres and a residential environment for clients with drug and alcohol problems, and their families. The community service provides information and advice, outreach work, assessment, counselling and aftercare. The Detox Out-Patient Centres assess drug abusers and provide medical treatment as well as social and psychological support; Detox In-Patient Centres and residential environment services assist those who want to come off drugs to do so in a safe and controlled residential environment, to adopt a new lifestyle and prepare for subsequent stages of rehabilitation and reintegration into society.

308. CARITAS (Malta), which has long been established in Malta, and other NGOs like OASIS (in Gozo) and Alcoholics Anonymous are also very actively involved in efforts to deal with these issues, especially by way of prevention, through awareness campaigns and education at schools.

309. As for drinking habits among teenagers, the European School Project on Alcohol and Drugs (ESPAD) reported finding that in 1995, out of 5,000 fifth form students, only 8 per cent of respondents had never touched alcohol and 67 per cent claimed easy access to alcohol; 5 per cent said that they drank beer daily and 7 per cent drank spirits almost every day. A total of 33 per cent of respondents said they started drinking beer before they were 11, and 44 per cent began drinking wine at the same time. Drinking at home was very frequently cited by respondents, with 21 per cent saying they had taken their last drink to date at home. 35/

310. One of the main factors contributing to under-age drinking was the availability of alcohol. Alcohol is accepted in society and is widely available across the counter at retail outlets to practically everybody. The need to foster awareness of the problems prompted SEDQA to conduct an anti-substance and alcohol abuse campaign among children. The campaign, costing thousands of liri and featuring a colourful cartoon bird Żażu, will be spread over three years starting from 1996. A spokesperson for SEDQA said that research had shown that by the age of 12 many children would have already acquired certain attitudes which it would be difficult to change to healthy lifestyles later on in life; hence, prevention must start very early.

311. Sedqa's statistics showed that for the calendar year 1995, one male in the 15-19 age group was in contact with SEDQA's Alcohol Community Service, and one male in the same group was admitted to Mount Carmel Hospital with an alcohol problem.

312. In terms of law, the Dangerous Drugs Ordinance, as amended by Act VII of 1994, especially protects children and young people from exposure to drug dealing. In the first place "dealing", with its grammatical variations and cognate expressions, includes cultivation, importation, manufacture, exploitation, distribution, production, administration, supply, the offer to do any of these acts, and the giving of information intended to lead to the purchase of drugs. Secondly, where the offence consists in selling or dealing in drugs, and the offence is done in, or within 100 metres of the perimeter of a school, youth club or centre, or such other place where young people habitually meet, or the offence consists in the sale, supply, administration or offer to do any of these acts to a child, to a woman with child or to a person who is following a programme of cure or rehabilitation from drug dependence, the punishment of imprisonment and fine shall be increased by one degree. In other cases, where the court finds that the defender is in need of care and assistance for his rehabilitation from dependence on any dangerous drug, the court may, instead of applying punishment, place the offender on probation, notwithstanding that the offender, who has attained the age of 14 years, has not expressed his willingness (where such willingness is otherwise required under the Probation of Offenders Act) to comply with the requirements set out in the order. Amendments are also proposed to the Medical and Kindred Professions Ordinance with a view to bringing the investigation, trial and punishment of offences involving psychotropic drugs into line with those of the Dangerous Drugs Ordinance.

313. Concerning children, the person charged, if he/she has not attained the age of 16 years, unless he/she is charged jointly with others of 16 years or over, shall be tried by the Juvenile Court. If the offender has reached the age of 14 years, a probation order may be made despite the fact that he/she has not expressed a willingness to comply with the requirements set out in the order. Where the offence is compounded by the circumstances enumerated above, the punishments are likewise increased by one degree.

3. Sexual exploitation and sexual abuse (art. 34)

314. Sporadic cases of child abuse in terms of paragraphs (a) and (b) of article 34 are not unknown but the number is low. Governmental and voluntary

agencies are empowered to see to these cases which, once reported, are dealt with by the police and the courts in terms of law. Cases involving paragraph (c) of the same article are not known.

4. Other forms of exploitation (art. 36)

315. The Government of Malta is concerned with the problem of children and young persons who fall foul of the criminal law or show a tendency to do so. The critical age bracket is from 12 to 16 years of age.

316. One other problem is of children and young persons who are difficult to control or whose families are themselves in difficulties. Most often these children cannot live at home with their parents and other members of their family. Plans are in hand to establish a residential home or homes for children in this condition. Programmes of rehabilitation and recovery will be provided to facilitate integration into society and normal living.

5. Sale, trafficking and abduction (art. 35)

317. Sale and traffic of children are non-existent.

318. With regard to abduction or relocation of children, there have been to date a few cases before the Maltese courts. This matter has already been considered under section V.H above.

D. Children belonging to a minority or an indigenous group (art. 30)

319. There are no indigenous groups in Malta. One has to take into account the relatively homogeneous nature of Maltese society without disregarding the recent influx of returned migrants and a number of refugees. Ethnic, religious or linguistic minorities do exist in Malta, as has already been noted elsewhere in this report; they are relatively small in number and integrate well within Maltese society.

Notes

1/ Regulations under that Act include L.N.49 of 1985: Children and Young Persons (Care Orders) Regulations, 1995, which regulates, inter alia, procedures at court, the Children and Young Persons Advisory Board, the administration of homes, hostels and institutions for children and the rights and duties of the Director of Welfare in this regard.

2/ Public support for essential social services carried out by non-governmental organizations is outlined in the NGO-Government Cooperation Agreements Document of the Ministry for Social Development (June 1994) which requires NGOs requesting public financing to submit detailed plans and costings and methods of accountability.

3/ According to a Council of Europe survey (1996). Malta is followed by San Marino (411) and the Netherlands (373); Iceland has 3 inhabitants per km^2.

4/ Germany's is 16.4 per cent, Finland's 19.1 per cent and Turkey's 32.7 per cent. Age groups for Malta are: 15-44, 163,930 (43.6 per cent), 45-64, 81,033 (23.2 per cent) and 65+, 38,870 (11.5 per cent) (Census of Population and Housing 1995 - preliminary report, March 1996). In December 1991, the total population was estimated at 359,543, of whom 177,685 were males and 181,858 females. When compared to the previous year, the population increased by 1,903 or 1.1 per cent, while females increased by 1,730 or 1.0 per cent. There was a natural net increase of 2,427 persons. Net migration movement added another 984 and the remaining 222 were the result of citizenship acquired through naturalization or registration.

5/ This is a Department of Health Policy and Planning publication (1995). It "focuses on some key areas where it is felt that more effort needs to be made or initiatives taken in addition to those already in being ... It proposes an approach whereby targets are set in key areas, the elaboration of detailed workplans to address the key areas ..." (pp. 3-4).

6/ The sections in the Civil Code where a distinction is made for purposes of rights of succession, namely 602 and 822, have been declared null and void by the Civil Court on 17 January 1997. No appeal has been lodged.

7/ Courts are known to order fathers of illegitimate children to recognize them in birth certificates and to maintain them financially.

8/ See Council of Europe DIR/JUR (94) 7, 10 November 1994.

9/ The number of applications (rikorsi) for personal separation before the Second Hall of the Civil Court totalled 465 in 1991, 515 in 1995 and 920 in 1996. An average of 2,200 marriages are registered each year. In December 1996 Government announced the setting up of a commission to draw up a report on the setting up of a Family Court some time in 1998. The report was published on 31 July 1997. Among other things, it recommended the creation of a post of Advocate for the Child in proceedings before a competent court in matters affecting children. The author of the present report recommends that the residual powers of the Civil Court be made to include the powers now vested in the Second Hall of the Civil Court. With mediation procedures yet to be introduced to supplement or substitute the existing attempts at reconciliation, the proposed court should be called Court of Family Affairs.

10/ Central Office of Statistics Statement, 24 October 1996. According to a Council of Europe survey (1996), in 1995 Malta had the second lowest percentage of non-marital births at 2.9 per cent, after Cyprus with 1.4 per cent. In 1994 Iceland's was 60 per cent and Sweden's 53 per cent.

11/ Project Document for Child Protective Services Unit of the Foundation for Medical Sciences and Services (FMSS) 1994, p. 3.

12/ Ibid., p. 3.

13/ See also to the same effect on prostitution section 6 of the White Slave Traffic (Suppression) Ordinance.

14/ FMSS Project Document, p. 6.

15/ The Ministry is guided by the Convention on the Rights of the Child (1989) and Recommendation No. R (90) 2 of the Committee of Ministers of the Council of Europe to member States on Social Measures Concerning Violence within the Family (15 January 1990).

16/ The Times, 7 June 1996. But in a recent case, which could be controversial, the First Hall of the Civil Court reluctantly gave a mother custody of her two children, a boy 7 and a girl 8, even though there were indications of physical abuse. She was to be monitored closely by a social worker. The father was also alleged to have abused his children and the children had been living in a children's home for many years. The court was reported as having noted that, had it been in the interests of the children, it would have had no qualms about removing the children from the custody of both parents (The Malta Independent, 15 December 1996, p. 7).

17/ This is also confirmed in the FMSS Project Document, mentioned supra, which says that it may be prudent to assume that the phenomenon of child abuse has remained constant, but adds the rider "in the absence of appropriate research".

18/ Number of care orders for each year: 1987 (2), 1988 (1), 1989 (1), 1990 (4), 1991 (23), 1992 (13), 1993 (19), 1994 (5), 1995 (11) and 1996 (8).

19/ The Reply to Parliamentary Question 589134/93 showed 12 children as being in foster care. The Fostering and Adoption Unit of DFW records 38 cases up to June 1996.

20/ There is a Health Promotion team as such within the Health Division with membership in the European Network of Health Promoting Schools.

21/ See Special Education in Malta: National Policy, National Commission on Persons with Disabilities (3rd ed.) 1995.

22/ For a more extensive history of government measures concerning children with disabilities see Childhood Policies and Measures in Malta by Macelli & Callus (1996), pp. 10-13.

23/ Malta is signatory to article 17 of the European Social Charter on the "Rights of mothers and children to social and economic protection".

24/ Malta has one of the lowest rates of single parents in Europe according to the survey Maltese Families in Transition - just 5 per cent (the United Kingdom is 14 per cent).

25/ The policy applicable to premises of pre-school facilities for children, day nurseries and play schools, but not childminding and childrn's homes (crèches) is contained in a note issued in May 1994, by the Planning Authority, the national watchdog on building works. The Authority formulated its Supplementary Policy on Kindergartens/Day Nurseries on the basis of the Structural Plan for Malta and deals with building regulations, development permissions and related matters.

26/ GNP was estimated to be around LM 1.5 billion in 1996/97.

27/ The period of compulsory education may by regulation be further extended for certain courses of training.

28/ In 1995/96 scholastic year, teaching staff in Church secondary schools stood at 1,043 and 435 in private fee-paying schools.

29/ In 1995/96 there were 10,495 pupils in Church nursery and primary schools (9,606 in Malta and 889 in Gozo) and 7,355 in private fee-paying schools. In 1996/97 there were 17,479 students in Church schools and 7,576 in private schools. In Church schools there were 1,907 in kindergarten, 8,144 in primary, 6,897 in secondary and 549 in post-secondary sectors. In private schools the numbers were 2,099 (kindergarten), 3,883 (primary), 1,431 (secondary) and 163 (post-secondary).

30/ See Bullying in State Schools: A Study of the Incidence and Nature of Bullying Among Primary and Secondary School Pupils - A Preliminary Report by Dr. Mark G. Borg (1995).

31/ Local councils are allocated funds for special projects. In 1996 LM 2.4 million were allocated for this purpose, of which Lm 50,000 were earmarked for the building of playing fields. There are 67 Local Councils and a good number of them do not have a playing field.

32/ The Director of the Emigrants Commission announced in November 1996 that it was the intention of Government to enact such a law.

33/ In 1996 the prison authorities segregated a unit of the Corradino Correctional Facility for young offenders of up to 21 years of age and sometimes older. A rehabilitation progamme is carried out. Plans are also advanced for removing this unit to another part of Malta and designating it an Adolescent Rehabilitation Centre.

34/ Malta Human Development Report (1996).

35/ A survey in 1996 at a local girls' secondary school showed that of 100 students aged between 12 and 16, 44 per cent drank alcohol. Of these, 25 per cent indicated beer, 17 per cent wine and 12 per cent vodka. Within their families, 40 per cent of the students said that their fathers drank alcohol, 15 per cent that their mothers drank, and 1 per cent that their brothers and sisters drank. Those questioned did not specify whether they drank at home or at leisure outlets. On (cigarette) smoking habits, 21 per cent said they had smoked at some time or other, 8 per cent that they smoked on a regular basis, 13 per cent that they had been smoking for more than one year, that 48 per cent of the fathers, 31 per cent of the mothers and 31 per cent of brothers and sisters smoked too. Alcoholics Anonymous and the Education Division Drama Unit were engaged to create more awareness.

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